

**SUMMARY OF ALCOHOL-RELATED BILLS *OTHER THAN SB187*
THAT PASSED 2009 LEGISLATURE**

H.B. 21 (Rep. Greenwood)

Additional penalties for minors who drive with a detectable amount of alcohol. A minor who has had his/her driver license suspended for operating a vehicle with a detectable amount of alcohol may seek reinstatement of the driver license. However, the reinstatement is contingent upon the minor's completion of an action recommended by a local substance abuse authority or substance abuse program within five years after the effective date of the license sanction.

H.B. 51 (Rep. Christine Johnson)

Home Production of Fermented Alcohol. Persons may produce beer, heavy beer, or wine (but not distilled beverages) in their own home without having to get a manufacturer's license, but only under the following conditions: (1) the individual must be 21 years or older; (2) the individual may manufacture no more than 100 gallons in a calendar year (200 if there are two or more adults in the household); (3) the beverage may only be manufactured and used for personal or family use and consumption, including use at an organized event where fermented beverages are judged as to taste and quality; (4) the beverage may not be sold or offered for sale or be consumed on a premises licensed by the commission; (5) the beverage may be removed from the individual's residence for personal or family use, or transported for use at an organized event where the beverage is judged as to taste and quality if:

- (a) it is transported in compliance with Section 41-6a-526 (Utah's open container law);
- (b) if removed for personal and family use, for each adult individual residing in the household:
 - (i) one liter of wine;
 - (ii) 72 ounces of heavy beer; or
 - (iii) 72 ounces of beer
- (c) for on-premise consumption at an organized event where the beverages are judged:
 - (i) one liter of wine for each wine category in which the individual enters – except that the individual may not remove wine for more than three categories for the same

- organized event;
- (ii) 72 ounces of heavy beer for each heavy beer category in which the individual enters – except that the individual may not remove heavy beer for more than three categories for the same organized event;
- (iii) 72 ounces of beer (under same conditions as for heavy beer);

(6) A partnership, corporation, or association may not manufacture a fermented alcoholic beverage for personal or family use and consumption without obtaining a manufacturer’s license, except that an individual who operates a brewery may remove beer from the brewery for personal or family use in the above amounts.

H.B. 129 (Rep. Oda)

Enhanced penalties for minors who violate the ABC

Act. If a minor violates: (1) the “proof of age” provisions of the ABC Act (32A-1-301); (2) the unlawful purchase, possession, or consumption by minors law (32A-12-209); or (3) the unlawful admittance or attempt to gain admittance by a minor law (32A-12-209.5) the following penalties apply:

- (1) first violation - class B misdemeanor
- (2) second violation - class A misdemeanor
- (3) third or subsequent violation - class A misdemeanor and the court may impose:
 - (i) a fine of up to \$5000;
 - (ii) screening, assessment, or substance abuse treatment as defined in 41-6a-501;
 - (iii) an education series as defined in 41-6a-501;
 - (iv) alcohol beverage related community service or compensatory-service work program hours;
 - (v) fees for restitution and treatment costs;
 - (vi) defensive driver education courses; or
 - (vii) a combination of these penalties; and
- (4) if the minor is at least 13 but younger than 18, the court shall forward the “record of adjudication” in accordance with the Juvenile Court Act to the driver license division and the provisions regarding suspension of a driver’s license under 78A-6-606 apply (i.e. one year suspension of driving privilege);

- (5) if the minor is at least 18 but younger than 21, the court shall forward to the driver license division the “record of conviction”, and that division shall suspend the minor’s driver license under 53-3-220 (i.e. one year suspension of driving privilege);
- (6) if the minor is subsequently arrested or convicted of a driving offense during the suspension period, the suspension shall be extended for an additional like period of time; and
- (7) the court must enter a judgment of conviction (no plea in abeyance).

In addition to the above penalties, if a minor uses proof of age in violation of the “proof of age” provisions of the ABC Act (32A-1-301)(i.e. false ID), and a DABC licensee is assessed a fine or administrative costs for selling, serving, or otherwise furnishing alcohol to a minor; purchasing or obtaining alcohol for a minor; permitting a minor to consume alcohol; permitting a minor to gain admittance into an area where the minor is not permitted; or offering or providing employment to a minor that may not be obtained by a minor, then the minor is liable to the DABC licensee for ½ the fine, administrative costs, and attorney fees incurred by the licensee to collect the amount owed by the minor. The licensee may bring an action in court to collect the amount owed. The action may be brought against the minor, or the parent or guardian of the minor if the minor is under 18. (This does not apply if the minor is a ward of the state or an agency of the state). The suit must be brought within two years after the fine is imposed by the commission. The minor may bring a cause of action against a third party (other than the licensee or employee or agent of the licensee) who caused the liability (i.e. an adult who facilitated the minor getting into the bar, or obtaining alcohol).

H.B. 313 (Rep. Hutchings)

Social Host Liability Act. In addition to any other civil or criminal penalties, an individual who knowingly conducts, aids, or allows two or more minors to engage in an underage alcohol drinking gathering can be legally responsible for: (1) the actual costs directly associated with an emergency response provider (not including salary and benefits of an emergency response provider for the time spent responding or administrative costs); (2) the costs of medical treatment to or for an emergency response provider

who is injured; and (3) the costs of repairing damage to equipment or property of a local entity. Law enforcement may also issue a citation to the individual. The individual is subject to a civil fine of \$250 for a first citation and the penalty doubles for each subsequent citation. The individual is also liable for any response costs up to \$1000. The individual is responsible even if not present at the underage drinking gathering. Two or more individuals are jointly and severally liable for the costs. If a minor is issued a citation, the minor's parent or legal guardian is not liable for any civil penalty imposed on the minor. Procedurally, the local entity sends notice of what is owed, and the individual must pay within 90 days from the date on which the notice is sent. The local entity may reduce the amount of the civil penalty or negotiate a payment schedule.

H.B. 352 (Rep. Dunnigan)

Conditional licensing for full-service and limited-service restaurants; and allowing an investigator access to information in clubs and taverns. The commission is authorized to issue a conditional license to a person who is building a restaurant that is not yet open for business. This allows the commission and department to conduct preliminarily investigations and inspections to ensure that the person qualifies for a license and that the business is not precluded from selling alcohol because of possible proximity issues to schools, churches, parks, playgrounds, and libraries. After the conditional license is issued, the person will be issued a valid license to sell alcoholic beverages once the person has obtained a current business license and provides evidence that there has been no change in the information provided to the commission when the conditional license was issued. A conditional license expires after six months unless it becomes a valid license before then.

An auditor or inspector employed by the DABC, or a peace officer, examiner, or investigator employed by another state, county, city, or town agency may have access to records, including electronic records such as video surveillance tapes kept by clubs and taverns. The investigator, with probable cause that a violation may have occurred, may "inspect, have a copy of, or otherwise review" any record that is a visual recording of the operations of the business.

S.B. 116 (Sen. Liljenquist) **DUI convictions.** Clarifies that the definition of “conviction,” for purposes of certain driving under the influence provisions, only includes convictions arising from a separate episode of driving. Also clarifies that a person is guilty of a separate offense for each victim suffering bodily injury, serious bodily injury, or death as a result of the person’s violation of the DUI or automobile homicide provisions whether or not the injuries arise from the same episode of driving. Also clarifies that a person is guilty of a separate offense for each victim suffering serious bodily injury or death as a result of the person’s violation of the prohibition on driving a vehicle in a negligent manner and having a measurable amount of a controlled substance in the person’s body whether or not the injuries arise from the same episode of driving.

S.B. 169 (Sen. Liljenquist) **“Fringe gambling”.** For purposes of Utah’s gambling statute (76-10-1101), gambling includes a lottery and “fringe gambling.” “Fringe gambling” is defined as any gambling, lottery, or video gaming device which is given, conducted, or offered for use or sale by a business in exchange for anything of value, or given away incident to the purchase of other goods or services. “Fringe gambling” does not include a gambling, lottery, video gaming device, or other promotional activity which is clearly occasional and ancillary to the primary activity of the business. This bill takes effect April 1, 2010.

S.B. 272 (Sen. Jenkins) **Increased driver license suspension periods for certain DUI offenses.** (1) If a minor is found by a court to have unlawfully purchased, possessed, or consumed alcohol in violation of 32A-12-209, or entered or attempted to enter a social club or tavern in violation of 32A-12-209.5, and it is the minor’s second or subsequent violation, the court:

(a) shall order the minor to participate in an educational series as defined in 41-6a-501; and

(b) may order the minor to participate in a screening as defined in 41-6a-501.

If the minor is at least 18, but younger than 21, the court shall suspend the minor’s driving privileges under 53-3-219. The court may reduce the suspension period if it is the minor’s first violation if the minor completes the educational series.

(2) Commencing July 1, 2009, driver license suspension periods listed in 41-6a-509 for DUI or for driving with any measurable controlled substance in the body listed in 41-6a-517 are increased as follows:

(a) if an adult: 120 days for a first time offense; two years

if previously convicted within 10 years

(b) if a minor: 120 days or until the person is 21 (whichever is longer) for a first time offense (or deny the application for a license or learner's permit for the same amount of time); two years or until the person is 21 (whichever is longer) if previously convicted within 10 years.