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## 2017 Utah Legislative Session - Week 6

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Before the legislative session began, the topic I was asked about most often was Medical Marijuana and the two different bills that would allow and regulate the product in Utah. However, after the bill sponsors agreed to instead support a joint medical research instead, the alcohol reform bills became the topic of most questions. I'm not sure what this says about the people I routinely encounter that these two topics come up so frequently! Perhaps these topics are more likely to make the evening news (rather than the less exciting tax bills we are heavily involved in), or maybe it is just because Utah is known for being conservative, and these topics are decidedly not conservative. Either way, if you had been wondering about the alcohol bills, but didn't want to ask, below is your update on the Utah alcohol reform bills this year.

There are two bills dealing with proposed changes to the treatment of alcohol in Utah. The first, HB155 Driving Under the Influence and Public Safety Revisions, is sponsored by Rep. Norman Thurston (R-Provo). It lowers the blood alcohol limit for driving under the influence from 0.08% to 0.05%. The bill has passed the State House, the Senate Transportation, Public Utilities & Transportation Standing Committee, and is awaiting a full hearing on the floor of the State Senate. If the bill passes by midnight on Thursday (the final day of the session), Utah will be the first state in the nation to enact blood alcohol limits lower than 0.08%.

The second bill, HB 442 Alcohol Amendments, is sponsored by Rep. Brad Wilson (R-Kaysville). This bill contains many changes to how alcohol is purchased and consumed in Utah at restaurants, bars, grocery stores, and convenience stores. It also includes an alcohol pricing mark-up to fund new education programs in the 8th and 10th grades. The bill has passed all the way through the State House and is awaiting a hearing in the State Senate. Below is a summary of the various provisions in the bill:

### Prevention Measures

HB442 includes improved prevention measures which are focused on youth education as well as on-premise and off-premise training programs. Two new underage drinking prevention programs will be implemented in the 8th and 10th grades. These programs will focus on the tools to address the dangers of underage drinking and the risks of drinking and driving. This bill would also mark up the price of alcohol by 2%, with these funds earmarked for the K-12 school lunch program and these underage drinking prevention efforts.

The bill also mandates improved training requirements for new licensees and license renewals (every three years). This training will concentrate on

statute awareness, operating requirements, prevention of over-consumption, prevention of selling to minors, and the implementation of age verification tools.

### **Retailer, Restaurant, and Bar Operations**

#### *On-Premise*

One of the major areas for this new policy implementation is “On-Premise” or restaurants and bars that prepare and serve alcohol directly to customers. Under HB 442 these establishments must have a Responsible Alcohol Service Plan (RASP). This plan will consist of a written set of policies and procedures that outline measures to prevent employees from over-serving alcoholic beverages to customers and serving alcoholic beverages to minors. The requirement to implement a RASP will apply to all new licensees and the regular renewal of existing licenses.

Under the current bill there are two options for a dispensing area. The first is a physically separate area that prevents patrons seated in the dining area or waiting area from viewing the dispensing of alcohol (the current “Zion Curtain”). Or, a restaurant has the option of creating an area that is essentially a 10-foot radius around the dispensing structure (no physical separation requirement). Restaurants can comply by meeting either of these requirements, and minors are not allowed in either type of dispensing area. The bill would also require electronic age verification for the dispensing area and signage at the entrance stating “Restaurant not a bar.”

#### *Off-Premise*

The “Off-Premise” category includes convenience stores, grocery stores, or any business that engages in the retail sale of alcohol for consumption off the retailer's premises. HB 442 requires retailers to move all beer and like products to two locations and separate the beer from other beverages. The bill requires approval by the Department of Alcohol Beverage Control of a product's labeling and packaging if the product looks like a nonalcoholic product or could confuse or mislead a consumer to believe that the product does not contain alcohol. This requirement to obtain Department approval falls on the manufacturer. The bill will also give the Department authority in the issuance of licenses to 'off-premise' retailers. However, local law enforcement will retain authority for the Eliminate Alcohol Sales to Youth (EASY) program.

### **Licensing**

HB 442 will implement a new flat license fee of \$1,650. It will revise the licensing proximity specifications on how far a bar or restaurant may be from a community location such as a school, church, library, playground, or park. Under this bill, a restaurant cannot be located within 450 feet walking distance from a community location, or within 200 feet of a measured straight line. One other notable change to the proximity requirements is the elimination of a variance by the DABC Commission. Existing licensees operating under a previously granted variance can continue to operate under it.

The bill will standardize all licensees and create a clear distinction between bars and restaurants. To do this, the bill removes all club licenses and requires all 'grandfathered' restaurants to comply with the same standards as other restaurants. "Dining Clubs" will migrate to either a bar or restaurant. Additionally, a "club license" would become a "bar establishment license," an "equity club license" would become an "equity license," and a "fraternal club license" would become a "fraternal license." The bill would also simplify the dual/multiple licensing issues with a one license per room policy. The exception would be an establishment with a restaurant license and a banquet or reception center license. In that case, the different licenses cannot operate at the same time.

All licensees – including 'grandfathered' restaurants – must comply with new requirements or surrender their license by July 1, 2018. This provides an ample timeframe for establishments to decide how they would like to fulfill the new requirements.

### **DABC Advisory Board**

Currently, the Department of Alcoholic Beverage Control (DABC) Advisory Board is comprised of 12 members: 11 voting members and one non-voting member. Of the voting members, 10 come from the retail industry, and the chair of the Utah Substance Use and Mental Health Advisory Council is the final voting member. This bill will reduce the Board to eight total members, with seven voting members and one non-voting member.

The Board is changing in size and in makeup. Under the new structure, three appointed members will represent the alcohol industry; two appointed members will represent an alcohol or drug abuse prevention, enforcement, or education group; and the director of the Division of Substance Abuse and Mental Health, and the chair of the Utah Substance Use and Mental Health Advisory Council is the final two voting member.

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