

Alcoholic Beverage Control Act

Utah Code Ann. Title 32B

Utah Code Title 32B

- The Alcoholic Beverage Control Act was repealed and reenacted by the Utah State legislature in 2010 as Title 32B
- Over time, changes in State Code have been significant and preempted many areas where cities used to regulate
- Amendments have been adopted every year since the 2010 reenactment (2011, 2012, 2013, 2014, 2015 and 2016)
- It is currently 16 chapters and over 120 pages

Statutory Preemption

- The Utah Code preempts local regulation
- **§ 32B-1-204. Powers of local authority**
 - (1) If this title expressly addresses an issue related to alcoholic product control in this state, a local authority may not regulate in relation to that issue except when a local authority is expressly granted regulatory authority to regulate the issue by this title.
 - (2) If this title does not expressly address an issue related to alcoholic product control, a local authority may regulate that issue if the regulation:
 - a) is of the sale, offer for sale, furnishing, or consumption of an alcoholic product; and
 - b) does not conflict with this title.

Effect of Preemption

- Alcohol licensing *is* included in the State statutory scheme
 - many aspects of alcohol licensing are preempted
 - Sandy *may* regulate if not regulated by the State
- Business licensing *is not* preempted
- Zoning *is not* preempted

State On-Premise Retail Licenses (Long term)

- Three types of restaurant licenses
 - Full Service (i.e. Iggy's, Olive Garden, McGrath's)
 - Limited Service (i.e. Royal India, Tin Roof Grill)
 - Beer Only (only 3.2% beer)
- Four types of club licenses
 - Equity (i.e. Hidden Valley Country Club)
 - Fraternal
 - Dining (i.e. ReAl Stadium)
 - Social (i.e. Sandy Station, Club 90)
- Four types of on-premise beer licenses
 - Tavern
 - Recreational Amenity (i.e. ReAl Stadium, Sandy AllStar Lanes)
- Reception Center
- Resort
- On-Premise Banquet (i.e. Expo Center)
- Hotel
- Airport Lounge

State Temporary Retail Licenses (Short term)

- Two types of retail licenses
 - Single Event Permit that allows all alcohol
 - Temporary Beer Event Permit that allows only 3.2% beer
- Sandy City regulates some operational procedures, such as:
 - Types of containers
 - Location of the sale and consumption within the event (i.e. beer garden)
 - Hours of operation
 - Can limit to fewer licenses than the State allows
 - Require temporary license to be in conjunction with a community event
 - Other regulations not already covered in State law

Other State Licenses

- Five types of special use licenses
 - Public Service
 - Industrial or Manufacturing
 - Scientific or Educational
 - Religious
 - Health Care
- Three types of manufacturing licenses
 - Winery
 - Distillery
 - Brewery
- Warehousing License
- Wholesaling License
- State Store
- Package Agency

City Alcohol License or Local Consent (Current Practice)

- Off-Premise Beer Retailer (i.e. Smith's, 7-Eleven) is the only Alcohol License issued by the local jurisdiction
- It is issued with the business license by the license official
- Other: Local consent is required for other State Alcohol Licenses
- Local consent is issued by the license official and sent to the State Department of Alcoholic Beverage Control ("DABC") when all application requirements and zoning have been met
- After all inspections and other business license approvals are complete, the business license is issued by the license official
- DABC waits until there is local consent and a valid business license to issue a State alcohol license

Sandy City Business License Requirements Title 5 Ch. 2

- Must include Sandy City's alcohol application with business license application
- Must indicate type of alcohol license when applying for business license
- Must provide a cash bond to ensure compliance with City ordinances
- Must also provide a separate cash bond for violations related to selling alcohol to minors
- Must meet all zoning requirements
- Obtaining and complying with the State alcohol license is a condition of the business license
- Compliance can be sought by the City through the City's business license denial, revocation and suspension process or by revocation of local consent

Sandy City Zoning

- Currently, Sandy allows certain alcohol licenses in specified zones
- Currently, some alcohol licenses are not allowed in any zones in Sandy (see separate table)
- The proposed language of the new licensing ordinance *does not* change any zoning designations
- Currently, Sandy's license types do not correspond well with the State (see separate table)
- The proposed language can be helpful by corresponding with State designations
- Next step will be to determine in which zones to allow or disallow each type of license