



## VIOLATION GRID

*In reference to DABS administrative rule R82-3-102*

### ***Common Terms, Violations, and Penalties***

**This document contains the following:**

- I. Definitions for the severity of violations
- II. Violation penalties
- III. Common violations in the sale of alcohol
- IV. Common violations that are not directly related to the sale of alcohol

#### Definitions for the severity of violations

<b>Term</b>	<b>Definition</b>
Minor	Lesser in nature and relate to basic compliance with laws and rules.
Moderate	Demonstrate a general disregard for laws and rules.
Serious	Directly or indirectly affect or potentially affect public safety, health, and welfare, or involve minors.
Grave	Pose or potentially pose a grave risk to public safety, health, and welfare, or involve lewd acts, fraud, deceit, willful concealment or misrepresentation of the facts, trade practice violations (exclusion, tied house, commercial bribery), interfering or refusing to cooperate with authorized officials in the discharge of their duties, unlawful importations, or industry supplying liquor to persons other than the department or military installations.

## VIOLATION PENALTIES

Severity of Violation	Number of Repeat Violations	Penalty to Licensee	Penalty to Offending Employee, Officer, or Agent
<b>Minor</b>	1 <sup>st</sup> violation	Verbal/written warning	Verbal/written warning
	2 <sup>nd</sup> violation	\$100 - \$500 fine	Verbal/written warning and potential \$25 fine
	3 <sup>rd</sup> violation	\$200 - \$500 fine and/or 1-5 days suspension	\$50 fine and/or 1-5 days suspension
	More than 3 violations	\$500 - \$25,000 fine and/or 6 days suspension, up to revocation of license	\$75 fine and/or 6-10 days suspension
<b>Moderate</b>	1 <sup>st</sup> violation	Verbal/written warning, and up to \$1000 fine	Verbal/written warning and up to \$50 fine
	2 <sup>nd</sup> violation	\$500 - \$1000 fine and/or 3-10 days suspension	\$75 fine and/or 3-10 days suspension
	3 <sup>rd</sup> violation	\$1000 - \$2000 fine and/or 10-20 days suspension	\$100 fine and/or 10-20 days suspension
	More than 3 violations	\$2000 - \$25,000 fine and/or 15 days suspension, up to revocation of license	\$150 fine and/or 15-30 days suspension
<b>Serious</b>	1 <sup>st</sup> violation	\$500 - \$3000 fine and/or 5-30 days suspension	\$300 fine and/or 5-30 days suspension
	2 <sup>nd</sup> violation	\$1000 - \$9000 fine and/or 10-90 days suspension	\$350 fine and/or 10-90 days suspension
	More than 2 violations	\$9000 - \$25,000 fine and/or 15 days suspension, up to revocation of license	\$700 fine and/or 15-180 days suspension
<b>Grave</b>	1 <sup>st</sup> violation	\$1000 - \$25,000 fine and/or 10 days suspension, up to revocation of license	\$300 fine and/or 10-120 days suspension
	More than 1 violations	\$3000 - \$25,000 fine and/or 15 days suspension, up to revocation of license	\$500 fine and/or 15-180 days suspension

## COMMON ALCOHOL SALES VIOLATIONS

### Moderate Violations

#### ➤ Consuming Away from Table

- Example: a patron consumes an alcoholic product somewhere other than the patron's table, a counter, a grandfathered bar structure, or from where food is served.
- Applies to a full-service restaurant, limited-service restaurant, and beer only restaurant.
- Authority (Utah law): §32B-6-205(9) (full service); §32B-6-305(9) (limited); §32B-6-905(9) (beer only restaurant); see also §32B-6-205.5(6) (full service); §32B-6-305(6) (limited service); §32B-6-905.1(7) (specific operational requirements for beer only restaurant).

#### ➤ Promoting Overconsumption

- Example: advertising or promoting over-consumption or intoxication, or overtly promoting increased consumption.
- Applies to on premises licenses.
- Authority (Utah law): R82-1-104(6)(e)

#### ➤ Sale without Food (failure to confirm 'intent to dine')

- Example: a restaurant licensee sells, offers for sale, or furnishes an alcoholic product without first confirming that the patron has the intent to order food prepared, sold, and furnished at the licensed premises.
- Applies to all restaurant types: beer only, limited service, and full-service.
- Authority (Utah law): §32B-6-205(7)(specific operational requirements for a full service restaurant); §32B-6-205.2(5)(a)(ii)(specific operational requirements for a full service restaurant); §32B-6-305(7)(specific operational requirements for limited service restaurant); §32B-6-305.2(5)(a)(ii)(specific operational requirements for a limited service restaurant); §32B-6-905(6)(b)(i) (specific operational requirements for a beer only restaurant); §32B-6-905.1(6)(b)(i)(specific operational requirements for a beer only restaurant).

#### ➤ Untrained Server

- Example: alcoholic beverages may be sold and dispensed only by a designated, trained server.
- Applies to all retail licenses.
- Authority (Utah law): §32B-5-403

## Serious Violations

### ➤ Adulterated Alcohol

- Example: filling an original container of alcohol with another substance.
- Applies to package agencies, retail licenses, permits, beer wholesalers, liquor warehouses, suppliers, and importers.
- Authority (Utah law): §32B-4-420(3) (unlawful adulteration); R82-5-104(8)(j) (liquor dispensing system)

### ➤ Brown Bagging

- Example: bringing alcohol onto a licensed premises (or an establishment that is open to the public) for consumption, except as expressly allowed in statute.
- Applies to retail licenses.
- Applicable statutes: § 32B-4-415(1) (criminal offenses and procedure); § 32B-5-307(1) (retail license)
- **Exception:** a person may bring a bottle of wine onto the premises of a full-service restaurant, a limited restaurant, a bar, or a resort spa.
- Authority (Utah law): §32B-4-415(4)

### ➤ Consuming on Duty

- Example: staff consumes an alcoholic product or is intoxicated while on duty.
- Applies to retail licenses, off-premise beer licenses, and event permits.
- Authority (Utah law): §32B-5-308(1) (requirements on staff or others on premises – employing a minor); §32B-7-202(4) (general operational requirements for off premises beer retailer); §32B-9-204(13)(b) (general operational requirements for an event permit).

### ➤ Doubles

- Examples:
  - The primary liquor in a beverage is more than 1.5 ounces (doubles)
  - The total alcohol in a beverage is more than 2.5 ounces, or
  - A patron has more than two drinks of alcohol at a time with 2.5 ounces each
- Applies to on premises retail licenses and single event permits.
- Authority (Utah law): §32B-4-422(1) (unlawful dispensing); §32B-5-304 (portions in which alcohol may be sold); §32B-9-304(4) (single event)

### ➤ Free Pouring

- Example: dispensing liquor without using a calibrated and metered dispensing system or device approved by DABC in accordance with commission rules.
- Applies to retail licenses.
- Authority: §32B-5-304(1) (portions in which alcoholic product may be sold)

## Serious Violations cont.

### ➤ Minor on Premises

- Example: a minor is not permitted to sit, remain, or consume food in the certain areas of a licensed premises.
- Applies to premises of bar, beer only restaurant, full-service restaurant, hospitality amenity license, limited-service restaurant, manufacturing licensee, package agency, resort spa sublicense, state store, tavern.
- Authority (Utah law): §32B-2-503(6) (minor not admitted on premises of state store); §32B-2-605(14) (minor not allowed on premises of package agency unless accompanied by adult); §32B-5-206(10)(c) (minor may not sit or consume food or beverages in grandfathered structure unless exception applies); §32B-6-205.4 (minor may not sit, remain or consume food or beverage at dispensing area of small, full service restaurant unless accompanied by an adult); §32B-6-305(10)(d)(ii) (minor may momentarily pass by a seating grandfathered bar structure without remaining or sitting at the bar structure en route to an area of a limited-service restaurant licensee's premises in which the minor is permitted to be); **§32B-6-305.4 (minor may not sit, remain or consume food or beverage at dispensing area of in dispensing are of small, limited service restaurant unless accompanied by adult)**; §32B-6-706(6) (specific operational requirements for on premise beer license or tavern); §32B-6-905.1(i) (minor not allowed in dispensing are of beer only restaurant); §32B-6-1005(10) (minor not allowed on premises of hospitality amenity license); §32B-8d-305(4) (minor not allowed onto sublicensed premises of resort spa unless accompanied by adult); §32B-11-210(6)(a) (minor not allowed on premises of manufacturing licensee for tasting); §32B-16-102(2) (allowing minor to have access to area where the minor is not allowed violates minor liability act)

### ➤ Open Containers

- Example: a patron cannot leave a licensed premises with an open container of alcohol.
- Applies to all licenses, package agencies, and state stores.
- **Exception:** An event permittee may sell, offer for sale, or furnish beer for on-premises consumption in an open original container. §32B-9-204(8)
- Authority (Utah law): §32B-2-605 (person cannot open sealed container in a package agency); §32B-5-307(2) (bringing alcoholic product onto or removing alcoholic product from premises); §32B-2-503(7) (person cannot open sealed container in state store).

### ➤ Sale by Minor

- Example: a minor, employed by the licensee, cannot sell, furnish, or dispense an alcoholic beverage.
- Applies to retail licenses and off-premise beer retailers.
- Authority (Utah law): §32B-5-308(2)(a) (requirements on staff or others on minor – employing a minor); §32B-7-202(4)(b) (a minor at least 16 years of age may sell beer on the premises of an off-premise beer retailer, but only under the supervision of an employee who is at least 21 years of age and who is on the premises at the time of the sale)

## Serious Violations cont.

### ➤ **Sale to Minor**

- Example: a person cannot sell, deliver, or furnish an alcoholic beverage to a minor
- Applies to all license types, package agencies, permittees, and state stores.
- Authority (Utah law): §32B-4-403 (unlawful sale, offer for sale or furnishing to minor); §32B-2-305 (package agency subject to covert investigations for selling alcohol product to minor); §32B-3-303(1)(e) (three or more sale to minor violations makes a person subject to nuisance retail licensing act).

### ➤ **Selling Alcohol at a Discount**

- Example: a retail licensee may sell, offer for sale, or furnish liquor only at a price fixed by the commission and may not sell an alcoholic product at a discount price on any date or at any time.
- Applies to retail licenses.
- Authority (Utah law): §32B-5-305(1)

### ➤ **Verifying Proof of Age (scanner)**

- Example: an “authorized person” must verify the age of a patron who appears to be younger than 35 before gaining admission to a licensed premises.
- Applies to a bar, tavern, full-service restaurant, limited-service restaurant, and beer-only restaurant.
- Authority (Utah law): §32B-1-407(3)

## Grave Violations

### ➤ **Intoxicated Person**

- Example: selling, offering for sale, or furnishing an alcoholic product to a person who was, actually or apparently, intoxicated.
- Applies to all retail licenses, event permits, off-premise retailers, package agencies, and state stores.
- Authority (Utah law): §32B-2-503(3)(state store); §32B-2-605(8) (package agency); §32B-3-303(1)(e) (acts making person subject to disciplinary); §32B-4-404(1)(unlawful sale, offer sale or furnishing to intoxicated person); §32B-5-306(1)(b)(purchasing of selling alcoholic product); §32B-5-303(3)(b)(operational requirements of a state store); §32B-7-202(5)(b) (off premise retailer); §32B-9-204(10) (event permit)

## OTHER VIOLATIONS - NOT RELATED TO THE SALE OF ALCOHOL

### Minor Violations

#### ➤ **Displaying License**

- Example: the license issued to a licensed premises must be displayed in a prominent place.
- Applies to retail licenses and event permits.
- Authority (Utah law): §32B-5-301(3)(a) (retail license, general operational requirements); §32B-9-204(3) (event permit)

#### ➤ **ID Badge**

- Example: an employee must wear a unique identification badge if he/she sells, dispenses, or provide alcoholic beverages.
- Applies to on-premises and off-premises retail licensees.
- Authority (Utah law): R82-5-107 (identification); §32B-7-202(7)

#### ➤ **Warning Sign**

- Example: a retail licensee must display a warning sign about the hazards of drinking alcohol in a prominent place.
- Applies to all licensees.
- Authority (Utah law): §32B-5-301(3)

### Moderate Violations

#### ➤ **Advertising Free Alcohol**

- Example: a promotion that involves or offers a free alcoholic product to the public.
- Applies to all licenses.
- Authority (Utah law): §32B-5-305(2)(f) (pricing of alcohol product); R82-1-104(2)(m) (advertising or advertisement may not offer alcoholic beverages without charge)

#### ➤ **Record Keeping**

- Example: a retail licensee must keep and maintain a record that shows quarterly expenditures for alcohol and food. The record must be supported by receipts, bills.
- Authority (Utah law): §32B-5-302(1)-(3)

#### ➤ **Unlocked Storage**

- Example: a liquor storage area must be locked at all times, except when liquor sales are allowed by law.
- Applies to retail licenses.
- Authority (Utah law): §32B-5-303(4).

## Serious Violations

### ➤ Flavorings

- Examples: flavoring must be clearly and conspicuously labeled as “flavoring.”
- Applies to retail licenses.
- Authority (Utah law): §32B-5-304(1)(iv) (portions in which alcohol may be sold)

## Grave Violations

### ➤ Gambling

- Example: engaging in or permitting any form of gambling.
- Applies to retail licenses and event permits.
- Authority Utah law): §32B-5-301(4) (general operational requirements of retail licenses); §32B-9-204(4) (event permits).

### ➤ Inspections

- Example: an employee or express agent must allow law enforcement or a representative of DABC to have access, ingress, or egress by to the premises or a conveyance where alcohol is stored, sold, furnished, manufactured or transported and take samples or inspect.
- Applies to all licenses and package agencies.
- Authority (Utah law): §32B-4-203(1)(b)(i), -(iii) (authority to inspect); § 32B-5-302(5) (records subject to inspection)

### ➤ Lewd Acts

- Examples:
  - Employing or using the services of a person to mingle with patrons while the person is in a state of nudity; semi nudity; or in clothing that exposes the female breast below the top of the areola; or the cleft of the buttocks.
  - Encouraging or permitting a person to perform an act of or simulate sexual intercourse, masturbation, sodomy, oral copulation, touch, caress, or fondle the breast, buttocks, anus, or genitals of any other person.
- Applies to retail licensees.
- Authority (Utah law): §32B-1-504 (general requirements on attire and conduct); §32B-1-505 (sexually oriented entertainer)

### ➤ Tied House

- Example: an industry member cannot induce a retailer to purchase an alcoholic product from the industry member or from DABC to the exclusion in whole or in part of a product sold or offered for sale. Seven types of inducement.
- Applies to an industry member and retailer.
- Authority (Utah law): §32B-4-704