

TITLE 12
ALCOHOLIC BEVERAGES

CHAPTER 1
GENERAL PROVISIONS

12-1-101. Definitions.

(a) As used in this title:

(i) "Alcoholic liquor" means any spirituous or fermented fluid, substance or compound other than malt beverage intended for beverage purposes which contains at least one-half of one percent (.5%) of alcohol by volume. As used in this paragraph, "beverage" does not include liquid filled candies containing less than six and one-quarter percent (6.25%) of alcohol by volume;

(ii) "Building" means a roofed and walled structure built or set in place for permanent use;

(iii) "Club" means any of the following organizations:

(A) A post, charter, camp or other local unit composed only of veterans and its duly organized auxiliary, chartered by the Congress of the United States for patriotic, fraternal or benevolent purposes and, as the owner, lessee or occupant, operates an establishment for these purposes within the state;

(B) A chapter, lodge or other local unit of an American national fraternal organization and, as the owner, lessee or occupant, operates an establishment for fraternal purposes within the state. As used in this subparagraph, an American fraternal organization means an organization actively operating in not less than thirty-six (36) states or having been in active continuous existence for not less than twenty (20) years, but does not mean a college fraternity;

(C) A hall or building association of a local unit specified in subparagraphs (A) and (B) of this paragraph, of which all of the capital stock is owned by the local unit or its members, operating clubroom facilities for the local unit;

(D) A golf club having more than fifty (50) bona fide members and owning, maintaining or operating a bona fide golf course together with a clubhouse;

(E) A social club with more than one hundred (100) bona fide members who are residents of the county in which it is located, owning, maintaining or operating club quarters, incorporated and operating solely as a nonprofit corporation under the laws of this state and qualified as a tax exempt organization under the Internal Revenue Service Code and having been continuously operating for a period of not less than one (1) year. The club shall have had during this one (1) year period a bona fide membership paying dues of at least twenty-five dollars (\$25.00) per year as recorded by the secretary of the club, quarterly meetings and an actively engaged membership carrying out the objects of the club. A social club shall, upon applying for a license, file with the licensing authority and the commission, a true copy of its bylaws and shall further, upon applying for a renewal of its license, file with the licensing authority and the commission a detailed statement of its activities during the preceding year which were undertaken or furthered in pursuit of the objects of the club together with an itemized statement of amounts expended for such activities. Club members, at the time of application for a limited retail liquor license pursuant to W.S. 12-4-301, shall be in good standing by having paid at least one (1) full year in dues;

(F) Club does not mean college fraternities or labor unions.

(iv) "Commission" means the Wyoming liquor division within the department of revenue created under W.S. 12-2-106;

(v) Repealed by Laws 1985, ch. 92, § 3;

(vi) "Industry representative" means and includes all wholesalers, manufacturers, rectifiers, distillers and breweries dealing in alcoholic liquor or malt beverage, and proscriptions upon their conduct shall include conduct by a subsidiary, affiliate, officer, director, employee, agent, broker or any firm member of such entity;

(vii) "Intoxicating liquor", "alcoholic liquor", "alcoholic beverage" and "spirituous liquor" are construed as synonymous in meaning and definition;

(viii) "Licensee" means a person holding a:

(A) Retail liquor license;

(B) Limited retail liquor license;

- (C) Resort liquor license;
- (D) County retail malt beverage permit;
- (E) Malt beverage permit;
- (F) Restaurant liquor license;
- (G) Catering permit; or
- (H) Bar and grill liquor license.

(ix) "Licensing authority" means the governing body of an incorporated city, town or county in Wyoming with the responsibility to issue, control and administer a particular license, or the commission;

(x) "Malt beverage" means any fluid, substance or compound intended for beverage purposes manufactured from malt, wholly or in part, or from any substitute therefor, containing at least one-half of one percent (.5%) of alcohol by volume;

(xi) "Original package" means any receptacle or container used or labeled by the manufacturer of the substance, containing any alcoholic liquors or malt beverages;

(xii) "Person" includes an individual person, partnership, corporation, limited liability company or any other association or entity, public or private;

(xiii) "Resident" means a domiciled resident and citizen of Wyoming for a period of not less than one (1) year who has not claimed residency elsewhere for any purpose within a one (1) year period immediately preceding the date of application for any license or permit authorized under this title;

(xiv) "Restaurant" means space in a building maintained, advertised and held out to the public as a place where individually priced meals are prepared and served primarily for on-premise consumption and where the primary source of revenue from the operation is from the sale of food and not from the sale of alcoholic or malt beverages. The building shall have a dining room or rooms, a kitchen and the number and kinds of employees necessary for the preparing, cooking and serving of meals in order to satisfy the licensing authority that the space is intended for use as a full service restaurant. "Full service

restaurant" means a restaurant at which waiters or waitresses deliver food and drink offered from a printed food menu to patrons at tables or booths. The service of only fry orders or such food and victuals as sandwiches, hamburgers or salads shall not be deemed a restaurant for the purposes of this section;

(xv) "Room" means an enclosed and partitioned space within a building large enough for a person to enter but not a cabinet. Partitions may contain windows and doorways, but any partition shall extend from floor to ceiling;

(xvi) "Sell" or "sale" includes offering for sale, trafficking in, bartering, delivering or dispensing and pouring for value, exchanging for goods, services or patronage or an exchange in any way other than purely gratuitously. Every delivery of any alcoholic liquor or malt beverage made otherwise than by gift constitutes a sale;

(xvii) "Wholesaler" means any person except the commission, who sells any alcoholic or malt beverage to a retailer for resale;

(xviii) "Brewery" means a commercial enterprise at a single location producing malt beverage in quantities to exceed fifteen thousand (15,000) barrels per year;

(xix) "Microbrewery" means a commercial enterprise at a single location producing malt beverage in quantities not to exceed fifteen thousand (15,000) barrels per year and no less than one hundred (100) barrels per year;

(xx) "Winery" means a commercial enterprise manufacturing wine at a single location in Wyoming;

(xxi) "Operational" means offering for sale to the general public alcoholic liquor and malt beverages as authorized under a license or permit issued under this title for not less than three (3) consecutive months during any calendar year;

(xxii) "Department" means the Wyoming department of revenue;

(xxiii) "Guest ranch" means a vacation resort offering accommodations for overnight stays and activities typical of western ranching;

(xxiv) "This title" means W.S. 12-1-101 through 12-9-119;

(xxv) "Out-of-state shipper" means any licensee outside this state who accepts orders for manufactured wine placed from this state and who ships, packages for shipment or facilitates in any way shipment of the wine by a third party or common carrier to any person, household or licensed retailer in this state.

12-1-102. Application of provisions.

(a) The general control and regulatory provisions of this title apply to all licenses and permits authorized under this title, unless otherwise provided.

(b) Nothing in this title prohibits a liquor supplier operating under a governmental permit or tax license from selling his product to the commission or delivering products at points not within the state of Wyoming after licenses are secured as required by the commission.

CHAPTER 2
WYOMING LIQUOR DIVISION

ARTICLE 1
IN GENERAL

12-2-101. Repealed By Laws 1996, ch. 74, § 3.

12-2-102. Repealed By Laws 1996, ch. 74, § 3.

12-2-103. Repealed By Laws 1996, ch. 74, § 3.

12-2-104. Repealed By Laws 1996, ch. 74, § 3.

12-2-105. Repealed By Laws 1996, ch. 74, § 3.

12-2-106. Wyoming liquor division; created; division administrator; duties.

(a) As part of the reorganization of Wyoming state government, the Wyoming liquor division is created within the department of revenue. The division shall consist of the programs and functions specified under this title.

(b) The administrator of the division shall be appointed by the director of the department of revenue and shall in accordance with W.S. 9-2-1706(c) and (d), serve at the pleasure

of and may be removed at any time by the director. Subject to the approval of the director, the administrator shall take final agency action with respect to all matters before the division pursuant to this title.

(c) The division shall administer all programs formerly administered by the Wyoming liquor commission.

ARTICLE 2 LICENSING AUTHORITY

12-2-201. Wholesale license for sale of malt beverages only; fee.

(a) A wholesale license authorizing the sale of malt beverages only may be granted by the commission to breweries, microbreweries and malt beverage wholesalers resident within this state. Wholesale licensees have the exclusive right to sell malt beverages at wholesale. Any qualified person desiring a wholesale license shall apply to the commission on forms to be provided and pay a license fee of two hundred fifty dollars (\$250.00) annually in advance.

(b) Each applicant shall submit to the commission a statement under oath designating clearly the geographical territory within which the applicant will sell and deliver malt beverages to qualified retail liquor and malt beverage licensees or permittees only. The territory is to be that designated by the brewer or brewer's authorized agent whose product the applicant sells. The application shall state that malt beverages sold by the applicant may be purchased by all retail liquor licensees or malt beverage permittees, and that the applicant will maintain a warehouse and delivery facilities within the territory designated. This subsection does not apply to a licensed malt beverage wholesaler when there has been no territorial designation of a brand by a brewer or the brewer's authorized agent to another licensed wholesaler. The commission may authorize a licensed wholesaler to annually purchase not more than one hundred fifteen (115) gallons of any unassigned brand. A retail liquor licensee or malt beverage permittee shall purchase all malt beverages for retail sale only from a Wyoming wholesale malt beverage licensee.

(c) A malt beverage wholesaler may sell to or purchase from another malt beverage wholesaler only those products the purchasing wholesaler is licensed to sell within his designated territory. A copy of the invoice of the transaction shall be

submitted to the Wyoming liquor commission by the seller. State excise tax shall be reported and paid by the licensed malt beverage wholesaler who has imported the products into the state.

(d) The commission may grant the number of licenses it deems appropriate and at points within the state as it may select.

(e) All Wyoming breweries and all malt beverage wholesalers shall be under the direct supervision of the commission and subject to all the provisions of this title and the rules and regulations of the department.

(f) Nothing in this section limits the commission's exclusive authority to wholesale alcoholic liquors.

(g) Notwithstanding W.S. 12-2-203, the commission:

(i) May authorize the sale of products of a microbrewery for off-premises sale through existing licensed wholesale malt beverage distributors according to W.S. 12-2-201 and subject to W.S. 12-2-304, 12-3-101 and 12-3-102; and

(ii) Shall assess to the microbrewery a fee not to exceed two hundred dollars (\$200.00) for the off-premises sale of microbrewery products;

(iii) The commission shall not grant a license for a brewery and a microbrewery to the same producer.

12-2-202. Sales by railroads and chartered transportation services; limited transportation liquor license; fees; chartered transportation services defined.

(a) The commission may authorize sales by railroads and by any charter transportation service. Under the authority of a limited transportation liquor license, railroads and chartered transportation services may sell alcoholic liquor or malt beverages when moved into and through the state in dining cars, club cars, observation cars and pullman cars attached to trains or in the passenger compartment of a chartered transportation vehicle. Upon application, the commission may issue a limited transportation liquor license for each scheduled train or chartered transportation vehicle upon which alcoholic liquor or malt beverages are to be sold, subject to the following terms and maximum fees:

(i) A license valid for one (1) twenty-four (24) hour period at a fee of not to exceed one hundred dollars (\$100.00). Any applicant may be issued more than one (1) license under this paragraph during any one (1) calendar year;

(ii) A license valid for one (1) year at a fee not to exceed one thousand dollars (\$1,000.00).

(b) It is unlawful to sell alcoholic liquor or malt beverages on railroad cars or chartered transportation vehicles without a limited transportation liquor license required by this section.

(c) As used in this section, "chartered transportation service" means "contract motor carrier" as defined by W.S. 31-18-101(a)(x)(A).

12-2-203. Manufacturing and rectifying; importing and industry representatives; licensing; fees.

(a) The division shall grant a manufacturer's license authorizing the manufacture or rectification of alcoholic liquor or malt beverages or an importer's license authorizing the importation of alcoholic liquor to a qualified resident within this state who submits an application to the division on forms provided by the division and pays an annual license fee of two hundred fifty dollars (\$250.00) for each license. A person may be issued both a manufacturer's license and an importer's license.

(b) The Wyoming liquor division shall grant a class A industry representative license for alcoholic liquor suppliers to a qualified individual domiciled within this state who submits an application to the division on forms provided by the division accompanied by an annual license fee of not to exceed seven hundred fifty dollars (\$750.00). A class A industry representative shall have a written statement from any vendor whose products the applicant proposes to represent. The class A industry representative shall be published in the division's price catalog with the products from any vendor represented by him and shall be authorized to request that the division list or delist products from the vendor represented by him.

(c) The division shall grant a class B industry representative license for alcohol liquor suppliers to a qualified individual domiciled within this state who submits an

application to the division on forms provided by the division accompanied by an annual license fee of not to exceed two hundred fifty dollars (\$250.00). A class B industry representative shall be employed or managed by a class A industry representative. A class B industry representative shall have a written statement from the class A industry representative designating any vendor whose products he is authorized to represent.

(d) The division shall grant a class C temporary special event industry representative license to any individual twenty-one (21) years of age or older who submits an application on a form supplied by the division for a fee of not to exceed fifty dollars (\$50.00) per event.

(e) No class A industry representative shall be employed by a licensee as defined by W.S. 12-1-101(a)(viii).

12-2-204. Out-of-state shipment of manufactured wine; license; fees; restrictions; conditions.

(a) Notwithstanding any law, rule or regulation to the contrary, any person currently licensed in its state of domicile as an alcoholic liquor or malt beverage manufacturer, importer, wholesaler or retailer who obtains an out-of-state shipper's license, as provided in this section, may ship no more than a total of eighteen (18) liters of manufactured wine directly to any one (1) household in this state in any twelve (12) month period.

(b) Notwithstanding any law, rule or regulation to the contrary, any person currently licensed in its state of domicile as an alcoholic liquor or malt beverage manufacturer, importer, wholesaler or retailer who obtains an out-of-state shipper's license, as provided in this section, may ship to any Wyoming retail establishment which holds a liquor license in this state any manufactured wine which is not listed with the liquor division as part of its inventory and distribution operation.

(c) Before sending any shipment to a household or to a licensed retailer in this state, the out-of-state shipper shall:

(i) File an application with the liquor division of the department of revenue;

(ii) Pay a license fee of fifty dollars (\$50.00) to the liquor division;

(iii) Provide a true copy of its current alcoholic liquor or malt beverage license issued in its state of domicile to the liquor division;

(iv) Provide such other information as may be required by the liquor division; and

(v) Obtain from the liquor division an out-of-state shipper's license, after the division conducts such investigation as it deems necessary.

(d) Any out-of-state shippers licensed pursuant to this section shall:

(i) Not ship more than a total of eighteen (18) liters of manufactured wine to any one (1) household in this state during any twelve (12) month period. In the event any out-of-state shipper ships more than ninety (90) liters of any particular manufactured wine to any combination of households or licensed retailers in this state, the out-of-state shipper shall offer to sell the manufactured wine to the liquor division at wholesale prices;

(ii) Ship manufactured wine only to an individual who is at least twenty-one (21) years of age for such individual's personal use and not for resale. No out-of-state shipper shall ship any malt beverage or spirituous liquor to any person in this state. No out-of-state shipper shall ship any malt beverage or spirituous liquor to any retail establishment which holds a liquor license in this state;

(iii) Ensure that all shipping containers of manufactured wine shipped pursuant to this section are conspicuously labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES. ADULT (OVER 21) SIGNATURE REQUIRED FOR DELIVERY";

(iv) Ensure that all shipments into this state are made by a duly licensed carrier and further ensure that such carriers comply with the requirement to obtain an adult signature;

(v) Remit a tax of twelve percent (12%) of the retail price for each shipment of manufactured wine to the liquor division. Each out-of-state shipper shall file a monthly report with the liquor division and include a copy of the invoice for each shipment of manufactured wine and remit any tax due. The report shall be filed with the liquor division not later than

the tenth of the month following the month in which the shipment was made. Any report filed late with the liquor division shall be subject to a late filing fee of twenty-five dollars (\$25.00);

(vi) Maintain records for at least three (3) years as will permit the liquor division to ascertain the truthfulness of the information filed and permit the division to perform an audit of the licensee's records upon reasonable request; and

(vii) Be deemed to have consented to the personal jurisdiction of the liquor division or any other state agency and the courts of this state concerning enforcement of this section and any related laws, rules or regulations.

(e) The out-of-state shipper shall annually renew its license with the liquor division by paying a renewal fee of fifty dollars (\$50.00), providing a true copy of its current alcoholic liquor or malt beverage license issued in its state of domicile, and further providing other information as may be required.

(f) Any person who makes, participates in, transports, imports or receives a shipment in violation of this section is guilty of a misdemeanor. Each shipment shall constitute a separate offense. Where the person holds an out-of-state shipper's license, license suspension or revocation may be in addition to or in lieu of the foregoing penalties.

ARTICLE 3 POWERS AND DUTIES

12-2-301. Generally.

(a) The commission is the exclusive wholesale distributor and seller of alcoholic liquor within Wyoming. It is granted the sole right to sell alcoholic liquors at wholesale, and no licensee or permittee who is granted the right to sell, distribute or receive alcoholic liquors at retail shall purchase any alcoholic liquors from any source other than the commission, unless otherwise expressly authorized by state law. Any out-of-state shipment of alcoholic liquor or malt beverage into this state is prohibited unless otherwise expressly authorized by state law.

(b) The department shall make rules and regulations as it considers necessary to carry out this title which shall not be

inconsistent with applicable laws and regulations of this state or of the United States.

(c) The director of the department shall direct inspections and other investigations as he considers necessary for the enforcement of the law and the rules and regulations of the department.

(d) Repealed By Laws 1996, ch. 74, § 3.

(e) Repealed By Laws 2008, Ch. 44, § 2.

12-2-302. Collection of excise taxes; disposition of revenue and fees.

(a) The commission shall collect all excise taxes provided by this title relating to alcoholic and malt beverages for deposit into the general fund.

(b) All other revenue and fees collected by the commission shall be deposited into the state treasury to the credit of the enterprise fund except as otherwise provided by law. The legislature shall authorize expenditures as necessary to defray the administrative expenses of the commission, including salaries, office expenses and general expenses for the enforcement of their duties and sufficient funds to defray the cost of alcoholic liquor purchases and attendant expenses as provided by W.S. 9-4-205(d).

12-2-303. Purchase and sale of alcoholic liquors; shortages.

(a) The Wyoming liquor division shall purchase and sell alcoholic liquors to qualified licensees within the state including, at the discretion of the division, any retail distributors or permittees operating within any military post or national park located within the boundaries of the state of Wyoming. Except as provided in subsection (c) of this section, sales shall be made at prices sufficient to return the cost of merchandise and all expenses of operation together with a profit, not to exceed seventeen and six-tenths percent (17.6%) above the cost of the merchandise.

(b) In the case of a shortage in the supply of any alcoholic liquor, the commission may apportion its available supply among the licensees in an equitable manner.

(c) The Wyoming liquor division may sell an alcoholic liquor at a price less than that provided in subsection (a) of this section if the alcoholic liquor has been designated by the division as overstocked or has been removed from the division's published listing of alcoholic liquors to be kept for sale to licensees. For purposes of this section "overstocked" means the amount of the alcoholic liquor in the division's inventory is greater than would be sold in a twelve (12) month period.

12-2-304. Inspections and examinations; failure to permit entry.

(a) The commission, through its employees or agents, may enter and inspect at any time every place of business wherein malt or alcoholic beverages are being sold, stored or kept by any licensee or permittee.

(b) The commission, through its employees or agents, may examine the records, books of account and stock of malt and alcoholic beverages of retailers, wholesalers and licensees.

(c) If any licensee refuses to permit the entry of an agent of the commission to his place of business or storage place for the purpose of inspection, his license may be revoked as provided by law. Entry for purposes of inspection is authorized only during open business hours unless it is in the presence of the licensee or his duly authorized representative or unless the officer making entry does so under court order or has reasonable grounds to believe that evidence of any violation of this title is within the place to be entered.

12-2-305. Sales to violators prohibited; hearing and review.

Whenever any licensee is convicted of willfully violating any provision of this title, upon satisfactory proof of the conviction, the commission may, after notice and hearing, refuse to sell alcoholic beverages to the licensee. The administrative proceeding shall be conducted as a contested case before a hearing examiner of the office of administrative hearings, who shall recommend a decision to the commission. Judicial review, if any, shall be from the decision of the commission and in accordance with the provisions of the Wyoming Administrative Procedure Act.

12-2-306. Sales to licensees failing to pay sales tax prohibited; hearing and review.

Upon certification by the department of revenue that any licensee is sixty (60) or more days delinquent in paying sales taxes, the liquor commission shall not sell alcoholic beverages to the licensee or its operator until the department of revenue certifies that the licensee has paid all sales taxes owed. Upon receipt of certification, the commission shall notify the issuing licensing authority of the delinquency. The licensee shall be allowed a hearing before the state board of equalization as provided by the Wyoming Administrative Procedure Act if the licensee feels aggrieved by any action taken under this section.

ARTICLE 4
ALCOHOL SERVER TRAINING PROGRAM

12-2-401. Definitions.

(a) As used in this article:

(i) "Department" means the department of revenue;

(ii) "Program" means an alcohol server training program and examination administered to servers by providers under the provisions of this article;

(iii) "Provider" means an individual, independent contractor, partnership, corporation, public or private school or any other legal entity certified by the department to provide an alcohol server training program authorized by this article;

(iv) "Server" means a person who physically serves or delivers alcoholic liquor at retail on or off the premises of a business licensed by a local licensing authority under this title.

12-2-402. Powers and duties of the department.

(a) Not later than December 31, 2003, the department shall promulgate rules establishing an alcohol server training program to train servers to help promote safe and responsible consumption of alcoholic liquor.

(b) The rules shall provide for the certification of providers who shall use curricula developed by the department. The department shall promulgate rules governing the manner in which providers make available program courses and examinations to servers.

(c) The department may suspend, revoke or not renew any certification issued to a provider if, after notice and opportunity for a hearing, the department finds the provider has violated this article or any rule promulgated under this article.

(d) The department may cooperate and enter into agreements with the department of health to implement the purposes of this section. The agreements may provide for the expenditure of funds appropriated to the department of health which are not otherwise restricted.

ARTICLE 5
BEER KEG REGISTRATION

12-2-501. Definition.

As used in this article "beer keg" means any brewery sealed, single container that contains not less than seven (7) gallons of malt beverage.

12-2-502. Sale of beer kegs.

No licensee shall sell beer kegs unless that licensee affixes an identification label or tag to each beer keg. An identification label or tag provided by the commission shall consist of paper, plastic, metal or another durable material that is not easily damaged or destroyed. Identification labels may contain a nonpermanent adhesive material in order to apply the label directly to an outside surface of a beer keg at the time of sale. Identification tags shall be attached to beer kegs at the time of sale with nylon ties or cording, wire ties or other metal attachment devices, or another durable means of tying or attaching the tag to the beer keg. The identification information contained on the label or tag shall include the licensee's name, address and telephone number, and a unique beer keg number assigned by the licensee. A prominently visible warning that intentional removal or alteration of the label or tag is a criminal offense shall be placed on the tag. Upon return of a beer keg to the licensee that sold the beer keg and attached the identification label or tag, the licensee shall be responsible for the complete and thorough removal of the entire identification label or tag, and any adhesive or attachment devices on the label or tag. The identification label or tag shall be kept on file with the licensee for not less than ninety (90) days after the date of return.

12-2-503. Licensee to keep records.

(a) A licensee at the time of selling any beer keg shall record:

(i) The number on the purchaser's:

(A) Motor vehicle driver's license issued by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or by an official governmental agency of Canada or Mexico;

(B) Permanent resident card issued by the United States citizenship and immigration services;

(C) An identification card issued to a member of the armed forces;

(D) An internationally accepted passport document with a discernible date of birth and photograph; or

(E) An identification card issued by the department of transportation.

(ii) The date and time of the purchase;

(iii) The beer keg identification number; and

(iv) The purchaser's signature.

(b) The record shall be retained for not less than ninety (90) days after the date of the sale.

12-2-504. Access to records.

A licensee required to retain records under W.S. 12-2-502 or 12-2-503(b) shall make the records available during regular business hours for inspection by a peace officer or the commission.

12-2-505. Violation.

(a) A person who is required to record information shall not knowingly make a materially false entry in the book or register required under W.S. 12-2-503. Any person who violates

this subsection is guilty of a misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00).

(b) Any person who removes or alters an identification tag or label affixed to a beer keg as required by W.S. 12-2-502, other than the licensee acting in accordance with W.S. 12-2-502, is guilty of a misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00).

CHAPTER 3 TAXATION

12-3-101. Excise tax to be paid; limitation on liquor or malt beverage importation; penalties.

(a) An excise tax is assessed and shall be collected by the commission equal to three-fourths of one cent (\$.0075) per one hundred (100) milliliters (3.4 ounces) or fraction thereof on fermented liquors, two and one-half cents (\$.025) per one hundred (100) milliliters (3.4 ounces) or fraction thereof on spirituous liquors and one-half cent (\$.005) per liter (33.8 ounces) or fraction thereof on malt beverages. The appropriate excise tax shall be collected on all alcoholic or malt beverages sold, offered for sale or use in this state.

(b) It is unlawful for any licensee to receive or possess any alcoholic or malt beverage upon which state excise taxes have not been paid.

(c) Any licensee or permittee who violates subsection (b) of this section is guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars (\$500.00), imprisoned for not more than one (1) year, or both.

(d) No person shall, without authorization from the commission or by law, personally transport alcoholic liquor or malt beverages into Wyoming for sale, use or consumption in the state when the applicable state excise tax has not been paid. No person shall import or transport at any given time more than three (3) liters of alcoholic liquor excluding wine, nine (9) liters of wine or five (5) gallons of malt beverage for the personal use of the possessor into Wyoming if the applicable state taxes have not been paid. This subsection shall not apply to a person importing manufactured wine in accordance with the provisions of W.S. 12-2-204.

(e) Any person importing or transporting alcoholic liquor in violation of subsection (d) of this section is guilty of a misdemeanor. All alcoholic liquor or malt beverages illegally imported or transported shall be forfeited and delivered to the commission for disposition as inventory stock.

12-3-102. Confiscation authorized; disposition; when seizure permitted.

(a) When an authorized inspector discovers alcoholic liquors or malt beverages upon which excise taxes have not been paid in the possession of a licensee, he shall take possession of and hold the alcoholic liquors or malt beverages as evidence against the offender. If the offender is convicted of a violation of W.S. 12-3-101, the court shall order that the untaxed liquor or beverage be delivered to the commission, if merchantable, where it will be added to its stock and sold in the usual course of business. If the liquors or beverages are determined to be nonmerchantable, the court shall order their destruction.

(b) Whenever an inspector, agent or employee of the commission or any peace officer of the state lawfully discovers alcoholic liquors or malt beverages which have been unlawfully imported or transported, he may seize the alcoholic liquor or malt beverage and packages in which they are contained for use as evidence and shall not be removed from state control upon writ of replevin or other like process.

CHAPTER 4
LOCAL LICENSES

ARTICLE 1
APPLICATIONS

12-4-101. Authority of cities, towns and counties; population figures; number of available licenses and permits; assessment and payment of fees.

(a) Incorporated cities, towns and counties within Wyoming shall license and regulate or prohibit the retail sale of alcoholic and malt beverages under this title. Nothing in this title prohibits a licensing authority of an incorporated city, town or county from issuing less than the total number of allowable retail liquor licenses pursuant to W.S. 12-4-201, less than the allowable bar and grill liquor licenses pursuant to

W.S. 12-4-413 or from refusing to issue any license or permit authorized by this title.

(b) Population figures are based upon the official ten (10) year federal census preceding the time of application. Population figures based upon the official census shall be periodically revised by a state population estimate no later than five (5) years after the federal census publication date.

(c) Population figures and estimates required by subsection (b) of this section shall be furnished to the appropriate licensing authorities within the state by the department of administration and information. The maximum number of licenses and permits available for issuance by a licensing authority pursuant to the population formula provided by W.S. 12-4-201 and 12-4-413, shall be certified and distributed by the commission.

(d) Unless otherwise provided, the licensing authority shall uniformly assess license or permit fees annually for each particular class of license or permit. Applicants for a license or permit shall pay the required fee in cash or by certified check upon receipt of the license or permit.

12-4-102. Application for licenses and permits; contents; signature and verification.

(a) Any person desiring a license or permit authorized by this title shall apply to the appropriate licensing authority. The application shall be made under oath upon a form to be prepared by the attorney general and furnished to the licensing authority. The application shall be filed in the office of the clerk of the appropriate licensing authority and shall contain the following provisions:

(i) The location and a description of the room in which the applicant will sell under the license if the building is in existence at the time of application. If the building is not in existence, the location and an architect's drawing or suitable plans of the room and premises to be licensed;

(ii) The age and residence of the applicant, and of each applicant or partner if the application is made by more than one (1) individual or by a partnership;

(iii) A disclosure of any criminal record of the applicant or any partner equal to a felony conviction under Wyoming law and of any conviction for a violation of Wyoming law

relating to the sale or manufacture of alcoholic liquor or malt beverages within ten (10) years prior to the filing of the application; and

(iv) If the applicant is a corporation:

(A) The name, age and residence of each officer, director and stockholder holding, either jointly or severally, ten percent (10%) or more of the outstanding and issued capital stock of the corporation; and

(B) Whether any officer, director or stockholder with ten percent (10%) or more ownership has been convicted of a violation of law as provided in paragraph (iii) of this subsection.

(v) If the applicant is a limited liability company:

(A) The name, age and residence of each officer, manager and member holding, either jointly or severally, ten percent (10%) or more of the outstanding ownership of the limited liability company; and

(B) If any officer, manager or member with ten percent (10%) or more ownership has been convicted of a violation of law as provided under paragraph (a)(iii) of this subsection.

(vi) A statement indicating the financial condition and financial stability of a new applicant;

(vii) The site and the zoning of the site where the applicant will sell under the license;

(viii) If application is for a retail license renewal, the applicant shall provide documentation to the local licensing authority that minimum purchase requirements specified in W.S. 12-4-103(c) have been met.

(b) No person or partner shall have any interest, directly or indirectly, in a license or permit unless he signs and verifies the application for the license or permit. No corporation shall be granted a license or permit unless two (2) or more of the officers or directors sign and verify the application on behalf of the corporation and also verify upon their oath as individuals that the statements and provisions contained therein are true, except that if all the stock of the corporation is owned by one (1) individual then that individual

may sign and verify the application and verify upon his oath that the statements and provisions contained therein are true. No limited liability company shall be granted a license or permit unless at least one (1) of the officers, managers, or if there are no officers or managers, at least one (1) of the members who is duly authorized to act on behalf of the limited liability company signs and verifies the application on behalf of the company and also verifies upon his oath that the statements and provisions contained therein are true.

(c) Corporate and limited liability company licensees and permittees shall advise the licensing authority within thirty (30) days in writing of any change in the information in the application required by paragraphs (a)(iv) or (v) of this section. The licensing authority shall provide the commission a copy of a notification of change.

12-4-103. Restrictions upon license or permit applicants and holders; license limitation per person.

(a) A license or permit authorized by this title shall not be held by, issued or transferred to:

(i) Any mayor, member of a city or town council or county commissioner within their respective jurisdiction;

(ii) Any person employed by the state or a city, town or county as a law enforcement officer or who holds office as a law enforcement officer through election;

(iii) Any person who does not own the building in which the sales room is located or hold a written lease for the period for which the license will be effective containing an agreement by the lessor that alcoholic or malt beverages may be sold upon the leased premises, except as provided by paragraph (iv) of this subsection;

(iv) Any licensee who fails to demonstrate that his licensed alcoholic or malt beverage enterprise will be operational in a planned but not physically functional building within two (2) years after a license or permit has been issued or transferred, or if holding a license, fails to open his business in a functional building within two (2) years after license issuance or transfer. Upon a showing of good cause by the licensee and for an additional period of not to exceed one (1) year, the local licensing authority may extend the time period in which the business or enterprise of the licensee is

required to become operational or open for business pursuant to this paragraph. Any license or permit in violation of this paragraph shall not be renewed by the local licensing authority;

(v) Repealed By Laws 1996, ch. 122, § 3.

(vi) A manufacturer of alcoholic beverages or wholesaler of malt beverages;

(vii) A person under eighteen (18) years of age;

(viii) A college fraternity or organization created by one (1) or more college fraternities;

(ix) A chamber of commerce, except for twenty-four (24) hour malt beverage permits issued pursuant to W.S. 12-4-502;

(x) A corporation, limited liability company, limited partnership, or limited liability partnership which has not qualified to do business in Wyoming;

(xi) An individual who is not a resident; or

(xii) Any general partnership or group of two (2) or more persons unless each person interested, directly or indirectly, is a resident or qualified to do business in this state.

(b) No licensing authority shall issue more than one (1) license or permit to any one (1) person.

(c) Except as provided in subsection (d) of this section, a license or permit authorized by this title shall not be renewed if the licensee or permittee did not, during the previous one (1) year term of the license or permit, purchase at least five hundred dollars (\$500.00) of alcoholic or malt beverages or a combination thereof from the commission or any authorized malt beverage wholesaler. A retail liquor license shall not be renewed if the licensee did not, during the previous one (1) year term of the license, purchase at least two thousand dollars (\$2,000.00) of alcoholic or malt beverages or a combination thereof from the commission or any authorized malt beverage wholesaler.

(d) Subsection (c) of this section shall not apply to:

(i) Any licensee or permittee having a planned but not physically functional building pursuant to paragraph (a)(iv) of this section;

(ii) Holders of special permits issued under article 5 of this chapter;

(iii) Holders of a limited transportation liquor license under W.S. 12-2-202.

12-4-104. Publication of notice; grant or denial; renewal preference; copy of application and notice to commission; judicial review.

(a) When an application for a license, permit, renewal or any transfer of location or ownership thereof has been filed with a licensing authority, the clerk shall promptly prepare a notice of application, place the notice conspicuously upon the premises shown by the application as the proposed place of sale and publish the notice in a newspaper of local circulation once a week for four (4) consecutive weeks. The notice shall state that a named applicant has applied for a license, permit, renewal or transfer thereof, and that protests against the issuance, renewal or transfer of the license or permit will be heard at a designated meeting of the licensing authority. Each applicant shall, at the time of filing his application, pay the clerk an amount sufficient to cover the costs of publishing notice. Notices may be substantially in the following form:

NOTICE OF APPLICATION FOR A

Notice is hereby given that on the day of (year) (name of applicant) filed an application for a license (permit), in the office of the clerk of the city (or town or county) of for the following described place (and room) (insert description) and protests, if any there be, against the issuance (transfer or renewal) of the license (permit) will be heard at the hour ofM., on the day of (year), in the (meeting place of the governing body).

Dated

Signed

(b) Any license or permit authorized under this title shall not be issued, renewed or transferred until on or after the date set in the notice for hearing protests. If a renewal or transfer hearing, the hearing shall be held no later than thirty (30) days preceding the expiration date of the license or permit. A

license or permit shall not be issued, renewed or transferred if the licensing authority finds from evidence presented at the hearing:

(i) The welfare of the people residing in the vicinity of the proposed license or permit premises shall be adversely and seriously affected;

(ii) The purpose of this title shall not be carried out by the issuance, renewal or transfer of the license or permit;

(iii) The number, type and location of existing licenses or permits meet the needs of the vicinity under consideration;

(iv) The desires of the residents of the county, city or town will not be met or satisfied by the issuance, renewal or transfer of the license or permit; or

(v) Any other reasonable restrictions or standards which may be imposed by the licensing authority shall not be carried out by the issuance, renewal or transfer of the license or permit.

(c) The owner and holder of an expired liquor license or permit or one due for expiration has a preference right to a new license for the same location. After the required notice and a public hearing, each application claiming renewal preference shall be promptly considered and acted upon by the licensing authority.

(d) When any application is filed with a licensing authority, the licensing authority shall immediately forward a copy of the application to the commission. No licensing authority shall approve or deny an application until the commission has certified the application is complete pursuant to this subsection. All applications shall be deemed to be certified unless objection is made by the commission within ten (10) working days after receipt of the application. Upon approval or denial of an application, the licensing authority shall promptly notify the commission.

(e) An applicant for a renewal license or permit may appeal to the district court from an adverse decision by the licensing authority. No applicant for a new license shall have a right of appeal from the decision of the licensing authority denying an application.

(f) Upon an appeal the person applying for a license and claiming renewal preference shall be named as plaintiff, with the licensing authority named as defendant. During the pendency of an appeal, a renewal license denied by a licensing authority shall not be granted to any other applicant. Upon notice of appeal the clerk shall transmit to the clerk of the district court a certified copy of the application, of each protest if any, and of the minutes recording the decision appealed from. The appeal shall be heard as a trial de novo with evidence taken and other proceedings had as in the trial of civil actions. The court may accept and consider as part of the record certified documents forwarded to the court by the clerk of the licensing authority. The case shall be heard promptly and the procedure shall conform to the Wyoming Rules of Civil Procedure unless other procedures are provided for or required.

12-4-105. Disposition of license fees; refunds prohibited.

All fees for licenses and permits issued by a licensing authority paid under this title shall be deposited into the treasury of the licensing authority. No refund of all or any part of a license fee shall be made at any time following issuance.

12-4-106. Term of license and permit; exception.

(a) A license or permit is considered a personal privilege to the holder and the term of the license or permit is for one (1) year unless sooner revoked. When a valid license or permit is determined to be part of the estate of a deceased holder, the administrator or executor of the estate may exercise the privilege of the deceased under the license or permit until the expiration of the license or permit.

(b) The term of a license or permit may be less than one (1) year if specified by the licensing authority to coincide with the annual date or dates set by the authority for consideration of license and permit issuance, renewals and transfers. A licensing authority issuing a license or permit for a term less than one (1) year shall pro-rate the annual fee accordingly. Any licensee not attempting to renew a newly issued pro-rated license or permit valid for one (1) year shall not be eligible for any license or permit authorized under this title for a period of two (2) years after the expiration date of the pro-rated license or permit.

RETAIL LICENSES AND PERMITS

12-4-201. Retail liquor licenses and malt beverage permits; population formulas; fees.

(a) A retail liquor license is the authority under which a licensee is permitted to sell alcoholic liquor or malt beverages for use or consumption but not for resale.

(b) A malt beverage permit is the authority under which the licensee is permitted to sell malt beverages only.

(c) Repealed by Laws 1979, ch. 156, § 4.

(d) Effective January 1, 1986, the number of retail liquor licenses issued shall be based on the following population formula:

(i) Not more than two (2) licenses in incorporated towns of five hundred (500) population or less;

(ii) Not more than one (1) additional license for each additional five hundred (500) population or major fraction thereof in incorporated cities or towns up to a population of nine thousand five hundred (9,500); and

(iii) Not more than one (1) additional license for each additional full three thousand (3,000) population over nine thousand five hundred (9,500).

(e) The license fee to be assessed for a retail liquor license shall be not less than three hundred dollars (\$300.00) nor more than one thousand five hundred dollars (\$1,500.00) payable annually in advance.

(f) Retail liquor licenses and malt beverage permits may be granted by the county commissioners as the appropriate licensing authority in a county outside of incorporated cities and towns as follows:

(i) One (1) retail liquor license issued for each five hundred (500) population residing outside cities and towns; but

(ii) No more than three (3) retail liquor licenses issued for locations within five (5) miles of the corporate limits of a city or town; and

(iii) Malt beverage permits may be issued for county locations beyond a five (5) mile zone around incorporated cities and towns without regard to population.

(g) The license fee for county retail liquor licenses within five (5) miles of a city or town shall not be less than the comparable fee charged by the adjacent town and all license fees and taxes shall be assessed as provided by law.

(h) The license fee assessed by a county for malt beverage permits shall be not less than one hundred dollars (\$100.00) nor more than one thousand five hundred dollars (\$1,500.00).

12-4-202. Licenses or permits issued prior to April 1, 1961; replacements.

Retail liquor licenses or other permits issued prior to April 1, 1961 are not subject to nonrenewal due to the application of population formulas or municipal boundary requirements provided by W.S. 12-4-201. If a license or permit is not renewed for any other reason it shall not be reissued until circumstances are in conformance with the requirements of W.S. 12-4-201.

12-4-203. Repealed by Laws 1985, ch. 92, § 3.

ARTICLE 3
SPECIAL CLUB LICENSES

12-4-301. Sales by clubs; license fees; petition; license restrictions.

(a) Bona fide clubs as defined by W.S. 12-1-101(a)(iii) may be licensed by the appropriate licensing authority under a limited retail liquor license for which the licensee shall pay a license fee of not less than one hundred dollars (\$100.00) nor more than one thousand five hundred dollars (\$1,500.00) annually in advance.

(b) At least fifty-one percent (51%) of the membership of a social club as defined by W.S. 12-1-101(a)(iii)(E) shall sign a petition indicating a desire to secure a limited retail liquor license. The form of the petition shall be prescribed by the commission and shall include the residence address of each member signing the petition.

(c) Except as otherwise provided by W.S. 12-5-201(g), a club holding a limited retail license shall not sell alcoholic

or malt beverages for consumption anywhere except within the licensed premises and for consumption by its members and their accompanied guests only. It shall be the duty and obligation of the club to check and regulate sales to members and their accompanied guests to insure that all alcoholic or malt beverages sold are consumed within the building, space or premises.

(d) Repealed by Laws 1985, ch. 92, § 3.

12-4-302. Repealed By Laws 2001, Ch. 103, § 2.

12-4-303. Repealed By Laws 2001, Ch. 103, § 2.

ARTICLE 4
RESORT AND RESTAURANT LIQUOR LICENSES

12-4-401. Resort retail liquor licenses; authorized; qualifications; provision for licenses issued prior to January 1, 1980.

(a) The appropriate licensing authority in a county, city or town may issue resort retail liquor licenses to applicants who are owners or lessees of a resort complex meeting the qualifications of subsection (b) of this section.

(b) To qualify for a resort retail liquor license, the appropriate licensing authority shall require the resort complex to:

(i) Have an actual valuation of, or the applicant shall have committed or expended on the complex, not less than one million dollars (\$1,000,000.00), excluding the value of the land;

(ii) Include a restaurant and a convention facility, which convention facility shall seat no less than one hundred (100) persons; and

(iii) Include motel or hotel accommodations with a minimum of one hundred (100) sleeping rooms.

(c) Nothing contained within this section shall have any effect on resort liquor licenses issued prior to January 1, 1980, or to the right or renewal of a resort liquor license.

12-4-402. Repealed by Laws 1979, ch. 156, § 3.

12-4-403. Population formula not applicable; transfer.

(a) The provisions authorizing resort liquor licenses have no application to the population formula limiting retail liquor licenses as provided by W.S. 12-4-201.

(b) No resort liquor license may be transferred to another location. License ownership may be transferred to a purchaser or licensee of the licensed premises with the approval of the licensing authority.

12-4-404. Sale of beverages for off-premises consumption prohibited.

Resort liquor licensees shall not sell alcoholic or malt beverages for consumption off the premises owned or leased by the licensee, except pursuant to a catering permit. The dispensing of alcoholic or malt beverages licensed to be sold hereunder shall be controlled by W.S. 12-5-201 and if a catering permit has been issued by W.S. 12-4-502(b).

12-4-405. Annual fee.

The annual fee for a resort liquor license shall be not less than five hundred dollars (\$500.00) nor more than three thousand dollars (\$3,000.00).

12-4-406. Repealed by Laws 1979, ch. 156, § 3.

12-4-407. Restaurant liquor license; authorized.

(a) Restaurants as defined by W.S. 12-1-101(a)(xiv) may be licensed by the appropriate licensing authority in counties, cities and towns under a restaurant liquor license. In addition to the application requirements required by this title, the license applicant shall submit a valid food service permit upon application. When the total dollar amount of wholesale purchases from the liquor commission of liquor in a county is greater than fifty (50) times the county population, then population formulas have no application to issuance of restaurant liquor licenses within the county.

(b) Repealed by Laws 1985, ch. 92, § 3.

(c) After the 1980 census has been completed and the maximum number of appropriate licenses has been certified by the

commission, the number of restaurant liquor licenses issued shall not exceed fifty percent (50%) of the number of retail liquor licenses allowable under W.S. 12-4-201(d), or two (2), whichever is greater.

(d) Any person presently holding a limited retail liquor license and otherwise qualified for a restaurant liquor license under W.S. 12-1-101(a)(xiv) and 12-4-407 through 12-4-411 may be issued a restaurant liquor license by the appropriate licensing authority. Licenses issued under this subsection shall not be considered in the number of licenses authorized under subsection (c) of this section.

12-4-408. Revenues of licensee to be derived primarily from food services and not the sale of alcoholic beverages; annual report.

(a) An applicant for a restaurant liquor license shall satisfy the appropriate licensing authority that the primary source of revenue from the operation of the restaurant to be licensed will be derived from food services and not from the sale of alcoholic or malt beverages.

(b) When renewing a restaurant liquor license, the appropriate licensing authority shall condition renewal upon a requirement that not less than sixty percent (60%) of gross sales from the preceding twelve (12) months operation of a licensed restaurant be derived from food services.

(c) Upon application for license renewal, a license holder shall submit an annual report to the licensing authority on the sales of the licensed restaurant. The report shall contain the annual gross sales figures of the restaurant and shall separate the gross sales figures into two (2) categories:

- (i) Food service sales; and
- (ii) Alcoholic and malt beverage sales.

12-4-409. Transfer of licenses.

No restaurant liquor license shall be transferred to another location. License ownership may be transferred to a purchaser or lessee of the licensed premises with the approval of the appropriate licensing authority.

12-4-410. Sale of alcoholic beverages for off-premises consumption prohibited; location, regulation and restrictions on dispensing of liquor; prohibiting certain activities.

(a) Except as provided in subsection (e) of this section, restaurant liquor licensees shall not sell alcoholic or malt beverages for consumption off the premises owned or leased by the licensee. Except as provided in subsections (b) and (e) of this section, alcoholic or malt beverages shall be served for on-premises consumption only in dining areas which are adequately staffed and equipped for all food services offered by the restaurant.

(b) Alcoholic and malt beverages shall be dispensed and prepared for consumption in one (1) room upon the licensed premises separated from the dining area in which alcoholic and malt beverages may be served and in the case of a golf course upon which a restaurant liquor license is operational or in the case of a guest ranch upon which a retail or restaurant liquor license is operational, at dispensing areas on the premises of the golf course or guest ranch as permitted by the licensing authority. No consumption of alcoholic or malt beverages shall be permitted within the dispensing room, nor shall any person other than employees over eighteen (18) years of age be permitted to enter the dispensing room. If a restaurant has a dispensing room separate from the dining area which is licensed prior to February 1, 1979 for purposes of alcoholic or malt beverage sales and consumption, the restaurant may dispense alcoholic or malt beverages in the separate dispensing room under a restaurant liquor license, and any person over eighteen (18) years of age is permitted to enter the separate dispensing room.

(c) All sales of alcoholic and malt beverages authorized by a restaurant liquor license shall cease at the time food sales and services cease or at the hours specified by W.S. 12-5-101(a) if food sales and services extend beyond the hours specified therein.

(d) No restaurant liquor licensee shall promote the restaurant as a bar and lounge nor shall the licensee compete with a retail liquor licensee in activities other than dinner functions, including, but not limited to, dances, receptions and other social gatherings. Nothing in this subsection shall require a restaurant liquor licensee to reconstruct or remodel licensed premises existing on or before June 8, 1989.

(e) A restaurant liquor licensee may permit a patron to remove one (1) unsealed bottle of wine for off-premises consumption provided that the patron has purchased a full course meal and consumed a portion of the bottle of wine with the meal on the restaurant premises. For purposes of this subsection the term "full course meal" shall mean a diversified selection of food which is ordinarily consumed with the use of tableware and cannot conveniently be consumed while standing or walking. A partially consumed bottle of wine that is to be removed from the premises pursuant to this subsection shall be securely sealed by the licensee or an agent of the licensee and placed in a tamper-proof transparent bag which shall also be securely sealed prior to removal from the premises, so that it is visibly apparent that the resealed bottle of wine has not been tampered with. The licensee or agent of the licensee shall provide a dated receipt for the bottle of wine to the patron. Wine which is resealed in accordance with the provisions of this subsection shall not be deemed an open container for purposes of W.S. 31-5-235.

12-4-411. License fee.

The annual fee for a restaurant liquor license shall be no more than three thousand dollars (\$3,000.00) and no less than five hundred dollars (\$500.00). The license fee for a county restaurant liquor license within five (5) miles of a city or town shall not be less than the restaurant liquor license fee charged by that city or town.

12-4-412. Microbrewery and winery permits; authorized; conditions; dual permits and licenses; satellite winery permits; direct shipment of wine; fees.

(a) Subject to restrictions imposed under W.S. 12-4-103 excluding W.S. 12-4-103(a)(vi), a local licensing authority may issue:

(i) A microbrewery permit authorizing a permit holder to brew a malt beverage and dispense the brewed malt beverage for on-premises and limited off-premises personal consumption;

(ii) A winery permit authorizing a permit holder to manufacture wine and dispense the manufactured wine for on-premises and limited off-premises personal consumption.

(b) The local licensing authority:

(i) May allow the sale of other malt beverages under a microbrewery permit for on-premises consumption when obtained through licensed wholesale malt beverage distributors;

(ii) May allow the sale of other wines under a winery permit for on-premises consumption when obtained from the commission;

(iii) May approve the dual holding of a microbrewery permit or winery permit and one (1) of the following:

(A) A retail liquor license as provided in W.S. 12-4-101 through 12-4-202;

(B) Subject to subsection (c) of this section, a restaurant license as provided in W.S. 12-4-411;

(C) A resort license as provided in W.S. 12-4-401 through 12-4-405;

(D) A microbrewery permit as provided under paragraph (a)(i) of this section;

(E) A winery permit as provided under paragraph (a)(ii) of this section; or

(F) Subject to subsection (e) of this section, a bar and grill liquor license as provided in W.S. 12-4-413.

(iv) May allow the microbrewery to sell on site its brewed product for off-premises personal consumption, not for retail sale, in packaging of bottles, cans or packs of an aggregate volume not to exceed two thousand (2,000) ounces per sale;

(v) May allow the winery to sell its manufactured wine on site for off-premises personal consumption, not for retail sale, in packaging of bottles of an aggregate volume not to exceed two thousand twenty-eight (2,028) ounces per sale;

(vi) Shall limit the number of microbreweries or the number of wineries to no more than those allowed in W.S. 12-4-201(d) for each permit;

(vii) May allow the transfer of a microbrewery or winery permit to another location and ownership of the microbrewery or

winery may be transferred upon approval by the local licensing authority; and

(viii) Shall assess a fee of not less than three hundred dollars (\$300.00) nor more than five hundred dollars (\$500.00) payable annually in advance for each microbrewery or winery permit. When dual ownership of a microbrewery or winery permit and a liquor license exists no additional fee shall be assessed other than the retail, restaurant or resort license fee.

(c) W.S. 12-4-410 shall apply to any person holding a microbrewery or winery permit and a restaurant liquor license pursuant to subparagraph (b)(iii)(B) of this section, except the dual holder:

(i) May provide a separate dining area in which the brewed malt beverage or manufactured wine may be dispensed which shall be separate from any dining area in which persons age eighteen (18) or under are permitted to enter. The dining room in which the malt beverages or wines are dispensed shall not be considered the dispensing room for purposes of the restaurant liquor license;

(ii) May sell the brewed malt beverage or manufactured wine for limited off-premises personal consumption pursuant to paragraphs (b)(iv) and (v) of this section;

(iii) May upon cessation of full service restaurant operations, serve a limited menu and continue to serve malt beverages authorized under the microbrewery permit or wines authorized under the winery permit; and

(iv) Shall not include sales of malt beverages or wines authorized under the microbrewery or winery permit, or sales other than food service and alcoholic beverages in the annual gross sales report required under W.S. 12-4-408(c).

(d) In addition to subsection (b) of this section, the local licensing authority may issue to the holder of a winery permit under this section a satellite winery permit which allows the permittee to sell its manufactured wine at up to three (3) satellite locations within Wyoming separate from its licensed manufacturing site under the original permit fee. The satellite winery permit may be issued on application to the appropriate licensing authority. The local licensing authority may require a public hearing and the payment of an additional permit fee not to exceed one hundred dollars (\$100.00) regardless of the number

of satellite locations. The satellite winery permit shall be subject to the terms and conditions of W.S. 12-4-106, the schedule of operating hours provided in W.S. 12-5-101 and the dispensing room provisions of W.S. 12-5-201.

(e) The provisions of W.S. 12-4-413 shall apply to any person holding a microbrewery or winery permit and a bar and grill liquor license pursuant to subparagraph (b)(iii)(F) of this section, except the dual holder:

(i) May sell the brewed malt beverage or manufactured wine for limited off-premise personal consumption pursuant to paragraphs (b)(iv) and (v) of this section;

(ii) May upon cessation of full service restaurant operations serve a limited menu and continue to serve malt beverages authorized under the microbrewery permit or wines authorized under the winery permit; and

(iii) Shall not include sales of malt beverages or wines authorized under the malt beverage or winery permit, or sales other than food service and alcoholic beverages, in the annual gross sales report required under W.S. 12-4-408(c).

(f) Notwithstanding paragraph (b)(v) of this section and W.S. 12-5-201, any person holding a winery permit as provided by this section, may sell and ship no more than a total of eighteen (18) liters of its manufactured wine directly to any one (1) household in this state in any twelve (12) month period.

(g) Notwithstanding paragraph (b)(v) of this section and W.S. 12-5-201, any person holding a winery permit as provided by this section, may sell and ship its manufactured wine which is not listed with the liquor division as part of its inventory and distribution operation to any Wyoming retail establishment which holds a liquor license in this state.

(h) Any licensed winery holding a winery permit pursuant to this section shall:

(i) Not ship more than a total of eighteen (18) liters of its manufactured wine to any one (1) household in this state during any twelve (12) month period;

(ii) Offer to sell its manufactured wine to the liquor division at wholesale prices if the winery ships more than

ninety (90) liters total of any of its manufactured wine to any combination of households or licensed retailers in this state;

(iii) Ship its manufactured wine only to individuals who are at least twenty-one (21) years of age for such individual's personal use and not for resale;

(iv) Ensure that all shipping containers of manufactured wine shipped pursuant to this section are conspicuously labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES. ADULTS (OVER 21) SIGNATURE REQUIRED FOR DELIVERY";

(v) Ensure that all of its shipments within this state are made by a duly licensed carrier and further ensure that such carriers comply with the requirement to obtain an adult signature;

(vi) File a monthly report of wines shipped out of state on a form provided by the liquor division and include a copy of the invoice for each shipment of their own manufactured wine subject to the following:

(A) The report shall be filed with the liquor division not later than the tenth of the month following the month in which the shipment was made;

(B) Any report filed late with the liquor division shall be subject to a late filing fee of twenty-five dollars (\$25.00).

(vii) Maintain records for at least three (3) years that will permit the liquor division to ascertain the truthfulness of the information filed and permit the division to perform an audit of the licensee's records upon reasonable request.

12-4-413. Bar and grill liquor license; authorized; requirements.

(a) Restaurants as defined by W.S. 12-1-101(a)(xiv) may be licensed by the appropriate licensing authority in counties, cities and towns under a bar and grill liquor license. In addition to the application requirements required by this title, the license applicant shall submit a valid food service permit upon application.

(b) The number of bar and grill liquor licenses for cities and towns shall be based on the following population formula:

(i) Not more than one (1) license in incorporated cities or towns of seven thousand five hundred (7,500) or less;

(ii) Not more than two (2) licenses for population in incorporated cities between seven thousand five hundred one (7,501) and fifteen thousand (15,000); and

(iii) Not more than three (3) for population in incorporated cities between fifteen thousand one (15,001) and twenty-seven thousand five hundred (27,500); and

(iv) Not more than one (1) additional license for each additional twelve thousand five hundred (12,500) population in incorporated cities over twenty-seven thousand five hundred (27,500).

(c) Bar and grill liquor licenses may be granted by the county commissioners as the appropriate licensing authority in a county outside of incorporated cities and towns as follows:

(i) One (1) license for each seven thousand five hundred (7,500) population residing outside incorporated cities and towns.

(d) The license fee assessed for a bar and grill liquor license shall be not less than one thousand five hundred dollars (\$1,500.00) nor more than ten thousand five hundred dollars (\$10,500.00).

(e) A bar and grill liquor license shall not be sold, transferred or assigned by the holder.

(f) Bar and grill liquor licenses shall be subject to the provisions of W.S. 12-4-408 and 12-4-410(c) to the same extent those provisions are applicable to restaurant liquor licenses. Bar and grill liquor licensees shall not sell alcoholic or malt beverages for consumption off the premises owned or leased by the licensee except as allowed under W.S. 12-4-410(e).

ARTICLE 5 SPECIAL PERMITS

12-4-501. Malt beverage permit for University of Wyoming; fee; rules and regulations.

(a) Upon an application to the city of Laramie for a malt beverage permit, the city shall issue a special malt beverage permit to the board of trustees of the University of Wyoming for sale of malt beverages drawn only from kegs at the student union on the campus of the University of Wyoming. The issuance of a malt beverage permit shall not be considered an alcoholic beverage permit issued on the basis of population as provided in W.S. 12-4-201.

(b) The fee for the permit provided by subsection (a) of this section is one hundred dollars (\$100.00).

(c) The board of trustees of the University of Wyoming shall provide rules and regulations for the following:

(i) Location of the dispensing rooms in which malt beverages may be sold;

(ii) Furnishings and other features of the dispensing rooms;

(iii) The hours and days of the operation of the dispensing rooms, which shall be within the following limits:

(A) Monday through Thursday, 3:00 p.m. to 10:00 p.m.;

(B) Friday, 3:00 p.m. to 12:00 midnight;

(C) Saturday, 10:00 a.m. to 12:00 midnight.

(iv) Whether food may be sold in the dispensing rooms;

(v) A uniform procedure of age identification for all purchasers;

(vi) Locations within the student union where malt beverages may be consumed; and

(vii) Such other rules and regulations necessary to carry out the purposes of this section.

(d) Repealed By Laws 2001, Ch. 105, § 2.

(e) The board of trustees may prohibit dispensing malt beverages by any seller designated under paragraph (c)(iv) of this section, for any period less than ninety (90) days, upon information that violations of state law have occurred.

12-4-502. Twenty-four hour malt beverage permit and catering permit; restrictions; application procedure; fees.

(a) A malt beverage permit authorizing the sale of malt beverages only may be issued by the appropriate licensing authority to any responsible person or organization for sales at a picnic, bazaar, fair, rodeo, special holiday or similar public gathering. No person or organization holding the special permit shall sell any alcoholic liquor other than malt beverages on the premises described on the permit, nor shall any malt beverage be sold or consumed off the premises authorized by the permit. W.S. 12-5-201 does not apply to this subsection.

(b) A catering permit authorizing the sale of alcoholic and malt beverages may be issued by the appropriate licensing authority to any person holding a retail or resort retail liquor license authorizing the off-premises sale of both alcoholic and malt beverages, for sales at meetings, conventions, private parties and dinners or at other similar gatherings not capable of being held within the licensee's licensed premises. No licensee holding a catering permit shall sell or permit consumption of any alcoholic or malt beverage off the premises described in the permit. Notwithstanding any other provision of this subsection, closed-container items sold at auction for the benefit of a nonprofit organization may be taken off-premises.

(c) The permits authorized by this section shall be issued for one (1) twenty-four (24) hour period, subject to the schedule of operating hours provided by W.S. 12-5-101. No person or organization shall receive more than a total of twelve (12) malt beverage and twenty-four (24) catering permits for sales at the same premises in any one (1) year, except that this limitation shall not be applicable to malt beverage permits issued for sales at any fair, rodeo, pari-mutuel event or other similar public event conducted by a public entity upon public premises.

(d) The malt beverage permit and the catering permit shall be issued on application to the appropriate licensing authority without public notice or hearing. An application for a malt beverage permit or catering permit under this section shall be accompanied by a designation of the event for which the application is sought specifying the type of event and the name of the sponsor. Any applicant applying for a permit authorized by this section and having licensed premises located within a jurisdiction other than that jurisdiction to which application

is made, shall secure the written approval of the licensing authority of that jurisdiction in which the licensed premises are located prior to filing an application for a permit.

(e) The fee for the malt beverage permit and the catering permit shall be not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) per twenty-four (24) hour period, payable to the appropriate licensing authority.

12-4-503. Repealed by Laws 1979, ch. 156, § 3.

12-4-504. Special malt beverage permit for public auditoriums, civic centers or events centers.

(a) The appropriate licensing authority in a county, city or town may issue a special malt beverage permit to any responsible person or organization for sales of malt beverages at public auditoriums, civic centers or events centers meeting the qualifications of subsection (b) of this section.

(b) To qualify for a special malt beverage permit as authorized pursuant to this section the appropriate licensing authority shall require that:

(i) The public auditorium, civic center or events center shall be an enclosed building owned by the county, city or town containing meeting rooms, kitchen facilities and at least one (1) auditorium which has a seating capacity for no less than five thousand (5,000) persons and is used for public gatherings;

(ii) The person or organization holds a written agreement with the owner of the public auditorium, civic center or events center giving said person the right to sell concessions within the building for the period for which the license will be effective.

(c) No person or organization holding the special malt beverage permit shall sell any alcoholic liquor other than malt beverages on the premises described on the permit, nor shall any malt beverage be sold for consumption off the premises authorized by the permit. It shall be the duty and obligation of the issuing body and the holder of the permit to see that no sales are made to any person under the age of twenty-one (21) years.

(d) The permits authorized by this section shall be issued after a hearing on application for a one (1) year period unless

sooner revoked and the license fee shall be one thousand five hundred dollars (\$1,500.00) payable annually in advance.

(e) The issuing body shall provide rules and regulations for the following:

(i) The location of the dispensing rooms;

(ii) The furnishings and other features of the dispensing rooms; and

(iii) The hours and days of the operation of the dispensing rooms.

12-4-505. Malt beverage permit for state fair.

(a) Upon application, the appropriate licensing authority shall issue to the director of the department of agriculture a malt beverage permit for the sale of malt beverages only on the state fairgrounds during the state fair. W.S. 12-5-201 does not apply to this subsection. The issuance of a malt beverage permit under this subsection shall not be considered an alcoholic beverage permit issued on the basis of population as provided in W.S. 12-4-201. Malt beverages shall only be sold for consumption on the state fairgrounds in areas specifically designated by the director of the department of agriculture.

(b) The fee for the permit provided by subsection (a) of this section is one hundred dollars (\$100.00).

(c) The director of the department of agriculture shall promulgate rules and regulations concerning:

(i) The location of the dispensing rooms;

(ii) The location of areas where malt beverages may be consumed on the state fairgrounds;

(iii) The furnishings and other features of the dispensing rooms;

(iv) The hours and days of the operation of the dispensing rooms;

(v) A uniform procedure of age identification for all purchasers; and

(vi) Other rules and regulations necessary to carry out the purposes of this section.

12-4-506. Repealed by Laws 2004, Ch. 73, §2.

ARTICLE 6
SALE, ASSIGNMENT AND TRANSFER

12-4-601. Transfer of license location; transfer of ownership; fee.

(a) After public hearing and with the approval of the licensing authority, a license or permit may be transferred to or renewed on different premises on the same basis as the original application. An additional license fee of not more than one hundred dollars (\$100.00) is required for the remaining term of the license or permit. A transferred license or permit shall expire on the same date as the original license or permit.

(b) A licensee, or the executor or administrator of the estate of a deceased licensee, may assign and transfer the license or permit by a sale made in good faith. The assignment and transfer shall first have the approval of the licensing authority, which consideration shall be based in part upon a public hearing and an application filed under oath by the assignee or transferee showing the person or entity to be qualified to hold a license or permit under Wyoming law. The approval of the transfer shall not be given by the licensing authority if proceedings, including an action to collect delinquent sales tax payments pursuant to W.S. 12-2-306, are pending to suspend, revoke or otherwise penalize the original license or permit holder. A transfer of a license or permit shall require the payment of an additional license fee to the appropriate licensing authority of not more than one hundred dollars (\$100.00) for the transfer, and upon assignment the assignee may exercise the privilege of continuing the business authorized by the license or permit.

12-4-602. Annexations; transfer of licensing jurisdiction; licenses transferred exempt from population formula.

(a) The licensed premises of a license issued by a county which is located within an area annexed into the corporate limits of a city or town shall be transferred to the licensing jurisdiction of that city or town.

(b) Any transfer of jurisdiction provided within this section shall not require the payment of any additional fee for the transfer.

(c) A county license transferred within the jurisdiction of a city or town pursuant to annexation shall not be transferred to or renewed on different premises within the city or town for a period of six (6) years after the transfer of jurisdiction.

(d) A license transferred pursuant to annexation shall be exempt from the population formula restrictions provided by W.S. 12-4-201 and 12-4-413.

(e) As used in this section, "license" includes a county malt beverage permit. A city or town shall charge the same fee for a county malt beverage permit as the county.

12-4-603. Annexation of retail liquor license or malt beverage permit into 5-mile zone; renewal.

(a) A county retail liquor license or malt beverage permit having licensed premises located within a five (5) mile zone around an incorporated city or town because of annexation of property shall not be denied an application for renewal by reason of annexation alone. The license or permit shall be subject to renewal by the county licensing authority in the same manner as if the licensed premises were beyond the five (5) mile zone around a city or town.

(b) A county retail liquor license or malt beverage permit renewed in accordance with subsection (a) of this section shall not be transferred to or renewed on different premises within a five (5) mile zone around an incorporated city or town for a period of six (6) years following the date of annexation of property.

12-4-604. Transfer or sale of license or permit; attachment, garnishment or execution.

No license or permit shall be transferred or sold except as provided by W.S. 12-4-601 through 12-4-603, used for any place not described in the license or permit at the time of issuance or subject to attachment, garnishment or execution.

12-4-701. Duty to prepare and furnish.

The Wyoming attorney general shall prepare and furnish to each city, town and county a form for liquor licenses and malt beverage permits. A license on a form other than as prescribed by the attorney general is invalid.

12-4-702. Signature and attestation; contents; display required.

(a) Each license issued by a city or town shall be signed by the mayor and attested by the clerk. Each license issued by a county shall be signed by the chairman of the board of county commissioners and attested by the county clerk.

(b) The following shall be shown in each license:

(i) The name of the licensee;

(ii) A description of the place in which alcoholic or malt beverages may be sold;

(iii) The date of issuance;

(iv) The amount of the fee; and

(v) That the fee has been paid.

(c) Each licensee shall display his license in a conspicuous place in the licensed room.

CHAPTER 5
RESTRICTIONS UPON LICENSEES

ARTICLE 1
HOURS OF OPERATION

12-5-101. Hours of sale generally; exceptions; designation of dates for unrestricted operation.

(a) All licensees may, with the approval of the local licensing authority, open the dispensing room at 6:00 a.m. and shall close the dispensing room and cease the sale of both alcoholic and malt beverages promptly at the hour of 2:00 a.m. the following day. In addition, licensees shall clear the dispensing room of all persons other than employees by 2:30 a.m.

(b) Clubs holding liquor licenses may be exempt from the hours of operation specified in subsection (a) of this section by local ordinance or regulation of the appropriate licensing authority.

(c) The hours of operation designated in subsection (a) of this section may be modified on no more than four (4) days each calendar year by a resolution or agreement made each year by the appropriate licensing authority designating those dates during city or county fairs, rodeos, pageants, jubilees, special holidays or similar public gatherings when all licensees may operate their dispensing rooms for a period of twenty-four (24) hours beginning at 6:00 a.m.

ARTICLE 2 DISPENSING ROOMS

12-5-201. Location, regulation and restrictions as to place of sale; inspections; additional dispensing rooms.

(a) Except as otherwise provided in this section, the principal place in which alcoholic liquor and malt beverages are sold under a license shall be located in one (1) room upon the premises for which the license is issued and as approved by the licensing authority. Upon payment of an additional license fee equal to two-thirds (2/3) of the fee paid for the original license, a licensee may have and maintain one (1) additional dispensing room in the same building under the authority of the original license. Alcoholic beverages secured in the licensed room by a server may be served only in the building in which the licensed room is located and in an immediately adjacent fenced or enclosed area as approved by the local licensing authority. This area shall not be in another building and shall be located on the licensed premises. Only alcoholic and malt beverages, nonalcoholic beverages, food, tobacco, alcoholic liquor and malt beverage promotional sales items sold to the licensee bearing the name and trademark of the alcoholic liquor and malt beverage firm or company whose product the item is advertising, promotional products bearing the name of the licensed retailer, billiard and dart supplies, newspapers, magazines and periodicals may be sold and served in the licensed room. The licensing authority shall, as often as necessary, inspect the licensed room and adjoining rooms where alcoholic beverages are served to insure that the licensee is in compliance with sanitation and fire hazard requirements and other applicable laws. A licensee may separate the facility for the sale of alcoholic liquor and malt beverages for off-premise consumption

from the facility used to serve customers for on-premise consumption without payment of an additional fee. A separated facility for making sales for off-premise consumption shall be located adjoining the facility for making sales for on-premise consumption. The two (2) facilities may be separated by a glass or other suitable partition.

(b) If a licensee is engaged in a business operation with convention facilities, the licensee may maintain more than one (1) additional dispensing room under the same fee referred to in subsection (a) of this section. For purposes of this subsection, a convention facility shall have and maintain all of the following:

- (i) Motel or hotel sleeping room accommodations;
- (ii) Restaurant facilities; and
- (iii) Conference facilities.

(c) Licensing authorities may issue a twenty-four (24) hour permit to any licensee authorizing the sale of alcoholic or malt beverages in one (1) additional dispensing room in the same building licensed by the original license for a twenty-four (24) hour period only. No one (1) licensee shall be issued more than six (6) permits in any one (1) year period. The fee for the permit shall be not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00).

(d) If the licensee is engaged in the operation of or is a concessionaire for a public auditorium, civic center or events center, the licensee may dispense alcoholic liquors or malt beverages in any room or other appropriate location within the confines of the licensed premises approved by the licensing authority under the same fee specified in subsection (a) of this section.

(e) Notwithstanding subsection (a) of this section, a licensee who holds a license other than a club license issued under W.S. 12-4-301 or restaurant license issued under W.S. 12-4-407, and who is engaged in a business operation with motel or hotel sleeping room accommodations at the same premises may, at an additional fee of not to exceed one-half (1/2) of the fee paid for the original license, sell alcoholic liquor and malt beverages in sealed containers from a minibar located in any sleeping room of the licensee's motel or hotel operation occupied by a registered guest twenty-one (21) years of age or

older. Sales under this subsection shall be only to registered guests age twenty-one (21) years or more, are not subject to hours of operation imposed under W.S. 12-5-101 and shall be only for consumption within the motel or hotel sleeping room premises occupied by the guest. Restrictions imposed upon minors under W.S. 12-6-101 apply to sales authorized under this subsection. The price imposed upon alcoholic liquor, malt beverages and all other items available for sale from the minibar shall be clearly posted. A minibar used for purposes of this subsection shall be a closed container, refrigerated or nonrefrigerated, access to the interior of which is restricted by means of a locking device requiring the use of a key, magnetic card or similar device. The appropriate licensing authority may impose additional reasonable restrictions on the operation of a minibar licensed under this subsection.

(f) A holder of a resort retail liquor license may dispense alcoholic beverages from any location within the boundaries of the resort premises. The resort premises shall be a single property within a contiguous boundary upon which the resort is located and which shall be identified in the license. Subsections (a) through (c) and (e) of this section do not apply to holders of a resort retail liquor license with respect to alcoholic beverages dispensed within the contiguous boundaries of the resort premises for which a resort retail liquor license is issued, except that any location on the resort premises where alcoholic beverages are dispensed as approved by the licensing authority shall comply with applicable sanitation and fire hazard requirements and other applicable laws. The licensing authority shall, as often as necessary, inspect the licensed location where alcoholic beverages are dispensed to ensure that the licensee is in compliance with sanitation and fire hazard requirements. For each additional fixed dispensing location, the applicant shall pay an annual fee equal to sixty-six and two-thirds percent (66 2/3%) of the original license fee.

(g) Any golf club as defined by W.S. 12-1-101(a)(iii)(D) which holds a retail liquor license or a club limited retail liquor license under W.S. 12-4-301 may dispense alcoholic beverages from any location within the boundaries of the golf club premises. The premises shall be a single property within a contiguous boundary upon which the golf club is located and which shall be identified in the license. Subsections (a) through (c) and (e) of this section do not apply to golf clubs as defined by W.S. 12-1-101(a)(iii)(D) which are holders of a retail liquor license or a club limited retail liquor license with respect to alcoholic beverages dispensed within the

contiguous boundaries of the golf club premises, except that any location on the golf club premises where alcoholic beverages are dispensed as approved by the licensing authority shall comply with applicable sanitation and fire hazard requirements and other applicable laws. The licensing authority shall, as often as necessary, inspect the licensed location where alcoholic beverages are dispensed to ensure that the licensee is in compliance with sanitation and fire hazard requirements.

(h) With the approval and on the conditions imposed by the licensing authority, any restaurant liquor licensee operating on a golf course may dispense alcoholic beverages from any location on the premises of the golf course. Subsections (a) through (c) and (e) of this section do not apply to holders of such licenses, but such holders shall comply with all applicable sanitation and fire hazard requirements, and other applicable laws.

(j) Any retail or restaurant liquor licensee operating on a guest ranch as defined by W.S. 12-1-101(a)(xxiii) may dispense alcoholic beverages from any location within the boundaries of the guest ranch premises. The guest ranch premises shall be a single property within a contiguous boundary upon which the guest ranch is located and which shall be identified in the license. Subsections (a) through (c) and (e) of this section do not apply to holders of such licenses. The licensing authority shall, as often as necessary, inspect the licensed location where alcoholic beverages are dispensed to ensure that the licensee is in compliance with sanitation and fire hazard requirements and other applicable laws. For each additional fixed dispensing location, the applicant shall pay an annual fee equal to two-thirds (2/3) of the original license fee.

(k) A licensing authority may authorize a licensee holding a retail liquor license issued under W.S. 12-4-201 to hold an event on the licensed premises at which persons under the age of twenty-one (21) are permitted upon the premises if:

(i) No alcoholic liquor or malt beverages are sold, served, consumed or possessed by any person in the dispensing room during the event;

(ii) The dispensing room is closed during the event and all alcoholic liquor and malt beverages are removed from the dispensing room in which the event is held and are stored in an area on the licensed premises not accessible to persons in the

closed dispensing room during the event or stored in a manner preventing dispensation during the event;

(iii) The licensee otherwise complies with any additional conditions which may be imposed by rule and regulation of the appropriate licensing authority, including revocation of the authorization to hold the youth event.

12-5-202. Storage outside licensed premises prohibited; exception.

A retail licensee shall not store alcoholic liquor or malt beverages outside of the licensed premises unless he files with the commission a written statement that he stores alcoholic liquors or malt beverages in a place other than his place of business and states the exact location of the storage place.

12-5-203. Minors restricted from dispensing room; exception; penalty.

(a) No licensee or agent, employee or servant thereof shall knowingly permit any person under the age of eighteen (18) years to enter or remain in the licensed room or rooms where alcoholic or malt beverages are dispensed. No person under the age of eighteen (18) years shall enter or remain in the licensed room or rooms where alcoholic beverages are sold unless:

(i) Accompanied by his parent or guardian who is at least eighteen (18) years of age and the licensed room is for the sale of alcoholic or malt beverages for off-premises consumption and separate from any licensed room for on-premises consumption; or

(ii) With the approval of the local licensing authority, in a dining or waiting area with an adult not later than 10:00 p.m. if the dining or waiting area is part of the licensed room.

(b) When the licensed room or rooms are not open for the sale or dispensing of alcoholic or malt beverages, employees of the licensee under the age of eighteen (18) may be permitted in the course of their employment to work in the room or rooms.

(c) Any person violating subsection (a) of this section or aiding, abetting or inciting any violation thereof is guilty of a misdemeanor and upon conviction shall be fined not more than seven hundred fifty dollars (\$750.00), imprisoned for not more than six (6) months, or both.

12-5-204. Prohibited acts within dispensing room; violation cause for suspension or revocation of license or permit.

(a) No licensee or agent or employee thereof shall knowingly permit prostitution under W.S. 6-4-101, public indecency under W.S. 6-4-201 or gambling as prohibited by W.S. 6-7-102 or shall promote obscenity under W.S. 6-4-302 within any dispensing room, building or premises licensed under this title.

(b) Any licensee or agent or employee thereof violating subsection (a) of this section, or aiding, abetting or inciting any violation thereof, is in addition to other penalties provided by law, sufficient cause for the suspension or revocation of a license or permit.

ARTICLE 3
DRIVE-IN AREAS

12-5-301. Conditions for operation.

(a) Upon approval of the licensing authority, a drive-in area adjacent or contiguous to the licensed room may be used by the holder of a retail liquor license for taking orders, making delivery of and receiving payment for alcoholic liquor or malt beverages under the following conditions:

(i) The holder of the retail liquor license shall own the area or hold a written lease for the period for which the license was issued;

(ii) No part of the area used for orders, delivery and making payment shall be more than forty (40) feet distant from the licensed room;

(iii) The area shall be well lighted and subject to inspection by the licensing authority at any and all times;

(iv) No walls or screens shall interfere with observing and checking the part of the area used for orders, delivery and payment;

(v) No order shall be received from nor delivery made to a person under twenty-one (21) years of age or an intoxicated person in the area;

(vi) No part of a publicly owned sidewalk, highway, street or alley shall be used for taking orders or conducting sales; and

(vii) Alcoholic liquor or malt beverages shall be sold and delivered in the drive-in area only in the original, unopened package and consumption of alcoholic liquor or malt beverages in the drive-in area shall not be permitted.

12-5-302. Determination to forbid or restrict.

The agents and officers of the licensing authority administering the retail liquor license shall determine whether traffic conditions or physical circumstances hindering law enforcement should require a decision forbidding or restricting sales and delivery in any drive-in area. If by resolution of the licensing authority the right of a licensee to use certain drive-in areas is forbidden or restricted that resolution shall be complied with by the licensee.

ARTICLE 4
INDUSTRY REPRESENTATIVES

12-5-401. Interests in licenses or permits to sell.

No industry representative shall hold any interest, stock or ownership directly or indirectly, in any license to sell products of the industry at retail under privileges of a license or permit to sell any beverage or liquor in Wyoming or in any premises so licensed. This section shall not apply to any person holding a microbrewery or winery permit pursuant to W.S. 12-4-412.

12-5-402. Furnishing of money and products; payment in full for malt beverages; credit for alcoholic liquor; credit deficiencies.

(a) Industry representatives shall not furnish, give or lend money or other things of value, directly or indirectly, to any person engaged in selling products of the industry at retail under privileges of a license or permit to sell any beverage or liquor in Wyoming. The prohibition shall extend to the giving to any person for the use, benefit or relief of the person engaged in selling the industry's products and to prohibit guaranty by the industry of a loan or other financial obligation of persons engaged at retail in selling these products.

(b) No sale or delivery of malt beverages shall be made by a wholesaler to any licensee except for payment in full made at the time of or prior to delivery, and a licensee shall not accept or receive delivery of malt beverages except when payment is made at or prior to delivery.

(c) The commission may grant credit to retailers when purchasing alcoholic liquor for a period not to exceed four (4) days from date of shipment. Payments by mail for credit shipments shall be postmarked within twenty-four (24) hours of the receipt of the shipment by the retailer. The commission may seize and sell all stocks of liquor of the retailer to satisfy any credit balance. Any deficiency constitutes a lien on any proceeds received through transfer of the license or permit. If a retailer defaults in payment for a shipment under this section, no further shipments shall be made to him for a period of one (1) year except on a C.O.D. basis.

12-5-403. Furnishing of equipment; advertising materials; records to be kept.

(a) Industry representatives shall not furnish, give, rent, lend or sell at cost or below, either directly or indirectly, any equipment, fixtures or supplies to any person engaged in selling products of the industry under the privileges of a retail liquor license or limited retail liquor license. No person licensed to sell products of the industry shall receive or be the beneficiary of any of the prohibited benefits.

(b) The following materials when furnished free of charge to the wholesaler or an alcoholic beverage supplies representative, are exempt from subsection (a) of this section and may be furnished, given or loaned to any retail liquor licensee or limited retail liquor licensee:

(i) National advertising and promotional materials bearing advertising matter and having no value to the retailer except as advertisements;

(ii) Consumer advertising specialties bearing advertising matter;

(iii) Retailer's advertising specialties bearing advertising matter; and

(iv) Standard brewery or manufacturer's signs.

(c) Repealed by Laws 1995, ch. 99, § 2.

12-5-404. Repealed by Laws 1995, ch. 99, § 2.

12-5-405. Sale of alcoholic liquor.

Industry representatives shall not sell or attempt to sell any alcoholic liquor within Wyoming, except to the commission. Any violation of this section is a misdemeanor.

ARTICLE 5
HABITUAL DRUNKARDS AND MINORS

12-5-501. Repealed by Laws 1979, ch. 156, § 3.

12-5-502. Liability for sale to child, ward or habitual drunkard when written notice thereof given.

If any court, parent or guardian gives written notice to any licensee that his or her child or ward is under the age of twenty-one (21) years, or any spouse or dependent gives written notice to a licensee that his or her spouse or person liable for the support of the dependent is an habitual drunkard and by reason of habitual drunkenness is neglecting to provide support for the spouse or dependent and the licensee or permittee so notified thereafter sells or gives any alcoholic liquor or malt beverage to the child, ward or habitual drunkard, the person giving the notice may bring an action in district court, against the licensee and upon proof of acts stated in the notice recover in the action the actual damages sustained, punitive damages and costs.

CHAPTER 6
MINORS

12-6-101. Sale or possession prohibited; when possession unlawful; public drunkenness; falsification of identification; penalty; prima facie identification as defense.

(a) Any person who sells, furnishes, gives or causes to be sold, furnished or given away any alcoholic liquor or malt beverage to any person under the age of twenty-one (21) years, who is not his legal ward, medical patient or member of his own immediate family, is guilty of a misdemeanor. This subsection does not apply to sales by the commission or a wholesaler to a licensee under this title.

(b) Any person under the age of twenty-one (21) years who has any alcoholic or malt beverage in his possession or who is drunk or under the influence of alcoholic liquor, malt beverages or a controlled substance on any street or highway or in any public place is guilty of a misdemeanor. This subsection does not apply to possession of alcoholic or malt beverages by a person under the age of twenty-one (21) years:

(i) When making a delivery of alcoholic or malt beverages pursuant to his employment;

(ii) Who is in the physical presence of his parent or legal guardian;

(iii) Repealed By Laws 1996, ch. 122, § 3.

(iv) Who is a licensee under this title; or

(v) When serving alcoholic or malt beverages pursuant to his employment in a restaurant which holds a license to serve alcoholic or malt beverages, if the person is at least eighteen (18) years of age. The term "serving" in this paragraph does not include the mixing or dispensing of alcoholic beverages.

(c) Any person under the age of twenty-one (21) years who attempts in any manner to purchase alcoholic or malt beverages or who falsifies any identification or uses any false identification in order to obtain alcoholic or malt beverages is guilty of a misdemeanor.

(d) Any person who violates this section, or aids, abets or incites any violation hereof, is guilty of a misdemeanor.

(e) A motor vehicle driver's license issued by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or by an official governmental agency of Canada or Mexico, a permanent resident card issued by the United States citizenship and immigration services, an identification card issued to a member of the armed forces, an internationally accepted passport document with a discernible date of birth and photograph or an identification card issued by the department of transportation is prima facie evidence of the age and identity of a person. Proof that a licensee or his employee or agent demanded, was shown and acted in reasonable reliance upon the information contained in any one (1) of the above documents as identification is a defense to any

criminal prosecution or action for the suspension or revocation of a license.

12-6-102. Transporting or possessing in motor vehicle with intent to furnish to person under 21; penalties.

(a) No person who is at least twenty-one (21) years of age shall transport, or have in his possession or control, any alcoholic liquor or malt beverage, with the intent of furnishing the same to any person under the age of twenty-one (21) years, while operating or occupying a motor vehicle.

(b) Any person who violates subsection (a) of this section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00), imprisonment in the county jail for not more than one (1) year, or both. Upon a second or any subsequent conviction under this subsection the person is guilty of a felony and shall be punished by imprisonment in the state penitentiary for a term not exceeding five (5) years.

(c) In addition to the penalty provided in subsection (b) of this section the division of motor vehicles shall suspend, for a period of one (1) year, the driver's license and automobile registration of any person convicted of operating a motor vehicle in violation of this section. The license suspension shall not run concurrent with any term of imprisonment, if imposed, but shall commence on the last day of incarceration.

12-6-103. Compliance.

(a) The department of health, working with local law enforcement agencies and other local individuals and organizations shall be the lead agency in the administration of this article. Nothing contained in this section shall be construed to limit or otherwise alter the authority granted to the department of revenue under any other provision of title 12.

(b) The department of health shall develop strategies to coordinate and support local law enforcement efforts in the enforcement of all state statutes relating to the prohibition of the sale of alcohol products to minors.

(c) The department of health shall have discretion to work with local agencies and individuals in the coordination of local

education, prevention and enforcement efforts that appropriately reflect the needs of the community.

(d) For purposes of this section, the term "compliance check" shall mean an inspection conducted pursuant to the provisions of this section for purposes of education or enforcement of laws prohibiting the sale of alcohol to minors. The use of persons age eighteen (18) to twenty-one (21) during compliance checks is authorized subject to the following:

(i) A person participating in a compliance check shall, if questioned, state his true age and that he is less than twenty-one (21) years of age;

(ii) The person's appearance shall not be altered to make him appear to be twenty-one (21) years of age or older;

(iii) Neither a person age eighteen (18) to twenty-one (21) nor his parents or guardians shall be coerced into participating in such inspections;

(iv) In the event that a citation may result the person conducting the compliance check shall photograph the participant immediately before the compliance check and any photographs taken of the participant shall be retained by the person conducting the compliance check;

(v) Any participant or adult aiding a participant in a compliance check under this section shall be granted immunity from prosecution under W.S. 12-6-101 and 12-5-203.

(e) The person conducting a compliance check under this section shall:

(i) Remain within sight or sound of the participant attempting to make the purchase;

(ii) Immediately inform in writing a representative or agent of the business establishment that a compliance check has been performed and the results of the compliance check;

(iii) If the compliance check may result in a citation, within two (2) days, prepare a report of the compliance check containing:

(A) The name of the person who supervised the compliance check;

(B) The age and date of birth of the participant who assisted in the compliance check;

(C) The name and position of the person from whom the participant attempted to purchase alcoholic beverages;

(D) The name and address of the establishment checked;

(E) The date and time of the compliance check; and

(F) The results of the compliance check, including whether the compliance check resulted in the sale or distribution of, or offering for sale, alcoholic beverages to the minor.

(iv) Immediately upon completion of the report required under this subsection, provide a copy of the report to a representative or agent of the business establishment that was checked;

(v) Request a law enforcement officer to issue a citation for any illegal acts relating to providing alcoholic beverages to minors during the compliance check.

CHAPTER 7
SUSPENSIONS AND REVOCATIONS OF LICENSES AND PERMITS

ARTICLE 1
IN GENERAL

12-7-101. Causes generally.

Any violation of this title by any manufacturer, rectifier, wholesaler, licensee, employee or agent thereof is sufficient cause for the suspension and in the case of gross violation the revocation of the license of the licensee.

12-7-102. Suspension of license when revocation inadvisable.

In a proceeding for revocation of a liquor license and when a licensee is found guilty of violating W.S. 12-1-101 through 12-8-301, the district court or the commission may, if it appears inadvisable to revoke the license, suspend the license for a period not to exceed the balance of the term for which the license was issued and the suspension shall not, of itself,

disqualify the license holder for renewal at the end of the license term.

12-7-103. Suspension of license by licensing authorities for failure to pay sales tax.

A local licensing authority may suspend any license issued under this title if the licensee fails to pay sales taxes and the commission has ceased sales of alcoholic liquor to the licensee pursuant to W.S. 12-2-306. The licensee may appeal license suspension to the district court in the manner specified under W.S. 12-4-104(f) and the appeal proceedings shall be in accordance with the Wyoming Rules of Appellate Procedure. The suspension shall remain in effect pending a decision by the appellate court.

ARTICLE 2
REVOCATION PROCEDURE

12-7-201. Civil action; administrative and judicial proceedings; disposition of liquors.

(a) An action to revoke any Wyoming liquor license or permit may be brought in the name of the state of Wyoming by the attorney general, any county attorney or the licensing authority for the reason that the licensee or permittee has violated this title.

(b) Actions to revoke licenses are civil actions and shall be tried before the court without a jury. The revocation proceedings shall be in accordance with the Wyoming Rules of Civil Procedure, and the trial and all other matters to come before the court shall have a priority upon the court calendar. If, upon trial, it appears that the license or permit of the licensee should be revoked, the court shall enter its order accordingly. The court may revoke the license or permit upon proof that the intent and purpose of this title has been violated. The fact that no criminal proceeding has been instituted or that no law with sanctions has been violated is not a defense to the action. Upon the application of the state and upon a showing to the satisfaction of the court that there are probable grounds for believing the license holder's license should be revoked, the court may issue an order suspending a license during the pendency of an action for its revocation and no bond shall be required as a condition to the issuance of the suspension order. Appeal from the final district court decision may be taken according to the Wyoming Rules of Appellate

Procedure, but the order of revocation shall remain in effect pending a decision by the appellate court.

(c) The provisions of this section are cumulative and shall not be construed as preventing the commission from revoking a liquor license in any case authorized by law.

(d) The commission may revoke any license or permit issued under this title for violation of any of the rules and regulations promulgated by the department pursuant to this title or for violation of any of the provisions of this title. Revocation proceedings initiated by the commission shall be conducted as a contested case under the Wyoming Administrative Procedure Act before a hearing examiner of the office of administrative hearings, who shall recommend a decision to the commission. The decision of the commission shall be subject to judicial review under W.S. 16-3-114 except that the review shall not operate to stay a revocation order of the commission during the pendency of the district court proceeding or during a later appeal to the supreme court. Should the license of a defendant expire during the pendency of an appeal in any of the courts of this state, no new or renewal license shall be granted by the licensing authority to the defendant or any other person pending the outcome of the appeal.

(e) Upon the revocation of a liquor license or permit, all alcoholic liquors in the possession of the license holder and which are in merchantable condition shall be delivered to the commission which shall reimburse the license holder for the value thereof at its then regular wholesale prices. All malt beverages and nonmerchantable alcoholic liquors shall be disposed of at the direction of the commission.

CHAPTER 8 PENALTIES

ARTICLE 1 IN GENERAL

12-8-101. General penalty for violations.

Any person who violates any provision of this title for which no specific penalty is provided is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars (\$750.00), imprisonment for not more than six (6) months, or both.

12-8-102. Manufacturing, rectifying or sale without license or permit; penalties.

(a) Any person who manufactures or rectifies any alcoholic beverage without holding a manufacturer's license or who possesses a still without holding a manufacturer's license is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000.00), imprisonment for not more than one (1) year, or both. Any equipment possessed and used in an illegal manner shall be confiscated by the state and disposed of as directed by the court. Nothing in this subsection shall prohibit any person from manufacturing fermented or malt beverages in limited quantities for his sole personal consumption.

(b) Any person who sells any alcoholic liquor or malt beverage without holding a license or permit authorizing the sale is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000.00), imprisonment for not more than one (1) year, or both.

ARTICLE 2
EVIDENCE

12-8-201. Possession of federal tax stamp; admission in evidence.

The possession of a special tax stamp from the United States authorizing the sale or manufacture of any alcoholic liquor or malt beverage by a person not licensed under this title, is prima facie evidence that the person holding the special tax stamp is manufacturing or selling in violation of W.S. 12-8-102. A certified copy of the special tax stamp verified by the proper authorities shall be admitted in evidence and considered in all respects as the original special tax stamp.

ARTICLE 3
DAMAGES

12-8-301. Limitation of liability.

(a) No person who has legally provided alcoholic liquor or malt beverage to any other person is liable for damages caused by the intoxication of the other person.

(b) This section does not affect the liability of the intoxicated person for damages.

(c) This section does not affect the liability of the licensee or person if the alcoholic liquor or malt beverage was sold or provided in violation of title 12 of the Wyoming statutes.

(d) For purposes of this section "licensee" is as defined in W.S. 12-1-101(a)(viii) and includes the licensee's employee or employees.

CHAPTER 9
MALT BEVERAGES

ARTICLE 1
RELATIONS BETWEEN MALT BEVERAGE
DISTRIBUTORS AND MANUFACTURERS

12-9-101. Legislative findings and intent.

(a) Regulation of business relations between malt beverage distributors and manufacturers serves a significant and legitimate public purpose.

(b) This act is intended to control and stabilize the distribution of malt beverages in the state and comprises an integral part of a comprehensive legislative regulation.

(c) This act is enacted pursuant to authority of the state under the provisions of the twenty-first amendment to the United States constitution to promote the public's interest in fair, efficient and competitive distribution of malt beverage products by regulation and encouragement of manufacturers and distributors to conduct their business relations toward these ends by:

(i) Assuring that the malt beverage distributor is free to manage its business enterprise, including the distributor's right to independently establish its selling prices;

(ii) Assuring the manufacturer and the public of service from a distributor who will devote reasonable efforts and resources to sales, distribution of the manufacturer's products which distributor has been granted the right to sell and distribute and to maintain a satisfactory sales level; and

(iii) Establishing and maintaining an orderly system of distribution of malt beverages to the public.

12-9-102. Definitions.

(a) As used in this act:

(i) "Brand" means any word, name, group of letters, symbol, trademark or combination thereof but not including the name of the supplier adopted and used by a supplier on a label to identify a specific beer or malt beverage and to distinguish that product from the label of another beer or malt beverage produced or marketed by that or another manufacturer;

(ii) "Brand extension" means any brand which incorporates all or a substantial part of the unique features of the label of a preexisting brand of the same manufacturer. A brand extension is not considered a new or different brand. Except for good cause a manufacturer shall assign a brand extension to the wholesaler which was granted the exclusive sales territory to the brand from which the brand extension resulted;

(iii) "Designated member" means the spouse, child, grandchild, parent, brother or sister of a deceased individual who owned an interest in a distributor's business, who is entitled to inherit the deceased individual's ownership interest in the distributor under the terms of the deceased individual's will, or who has otherwise been designated in a valid testamentary instrument by the deceased individual to succeed the deceased individual in the distributor's business, or who is entitled to inherit such ownership interest under the laws of intestate succession of this state. With respect to an incapacitated individual owning an ownership interest in a distributor, "designated member" means the person appointed by a court as the conservator of the individual's property. The term also includes the appointed and qualified personal representative and the testamentary trustee of a deceased individual owning an ownership interest in a distributor's business;

(iv) "Distributor" or "wholesaler" means any person licensed in the state to sell and distribute malt beverages at wholesale to persons who are licensed to sell malt beverages at retail in Wyoming;

(v) "Franchise" means a contract or agreement either expressed or implied, whether oral or written, for a definite or indefinite period of time in which a manufacturer grants to a

malt beverage distributor the right to purchase, resell and distribute any brand or brands offered by the manufacturer;

(vi) "Franchisee" means a malt beverage distributor to whom a franchise is offered or granted;

(vii) "Franchisor" means a malt beverage manufacturer who grants a franchise to a malt beverage distributor;

(viii) "Fraud" means:

(A) A misrepresentation in any manner, whether intentionally false or arising from gross negligence, of a material fact;

(B) An intentional failure to disclose a material fact;

(C) Any artifice employed to deceive another.

(ix) "Good cause" means:

(A) Insolvency of the distributor, the filing of any petition by or against the distributor under any bankruptcy or receivership law, or the dissolution or liquidation of the wholesaler which materially affects the distributor's ability to remain in business;

(B) Revocation or suspension of the distributor's license whereby the distributor cannot distribute malt beverages for more than sixty (60) days;

(C) The distributor or an individual who owns more than ten percent (10%) of the stock of a corporate distributor has been convicted of a felony. As used in this paragraph, "felony" means a felony under the United States Code or laws of this state;

(D) The distributor intentionally sells the supplier's products to a retailer or retailers outside that distributor's assigned territory;

(E) There is a failure by the distributor to comply with a provision of the agreement with a manufacturer which is both reasonable and of material significance to the business relationship between the distributor and the manufacturer and which failure has not been cured by the distributor pursuant to the provisions of this act.

(x) "Good faith" means honesty in fact in the conduct of the transaction involved and the observance of reasonable commercial standards of fair dealing in the trade;

(xi) "Manufacturer" means any person licensed to manufacture or import malt beverages for distribution to distributors licensed in Wyoming;

(xii) "Person" means a natural person, corporation, association, partnership, trust or other business entity and, in case of a business entity, shall include any other entity in which it has a majority interest or it effectively controls, as well as the individual officers, directors, and other persons in active control of the activities of each entity. "Person" also includes heirs, assignees, personal representatives and guardians;

(xiii) "Reasonable qualifications" means the average standard of the criteria used by the respective manufacturer for similarly situated distributors that entered into or renewed an agreement with the manufacturer during a period of twenty-four (24) months prior to the proposed transfer of the distributor's business;

(xiv) "Retaliatory action" includes, but is not limited to, the refusal to continue an agreement, or a material reduction in the quality of service or quantity of products available to a distributor under an agreement, which is not made in good faith as defined in this act;

(xv) "Sale" includes the issuance, transfer, agreement for transfer, exchange, pledge, hypothecation or mortgage in any manner or form, whether by transfer in trust or otherwise, of malt beverages or of any franchise related thereto for consideration and any option, subscription or other contract for consideration;

(xvi) "Similarly situated distributors" means distributors of a manufacturer that are of a generally comparable size, and operate in markets with similar demographic characteristics, including population, size, density, distribution and economic conditions;

(xvii) "Transfer of a distributor's business" means the voluntary sale, assignment or other transfer, including the sale

or other transfer of stock or assets by merger, consolidation or dissolution of:

(A) The business;

(B) Control of the business of the distributor; or

(C) An ownership interest of ten percent (10%) or more of the business of the distributor.

(xviii) "This act" means W.S. 12-9-101 through 12-9-119.

12-9-103. Application of act.

Any person who engages directly or indirectly in purposeful agreements or contracts in connection with the purchase of malt beverages from manufacturers or the sale of malt beverages to malt beverage distributors within this state shall be subject to the provisions of this act and shall be subject to the jurisdiction of the courts of this state for violations of this act in accordance with the provisions of the laws of this state.

12-9-104. Unfair and prohibited acts.

(a) It shall be a violation of this act for a manufacturer or manufacturer's officer, agent or other representative thereof:

(i) To coerce or compel, or attempt to coerce or compel, any malt beverage distributor to order or accept delivery of any malt beverage or any other commodity which the distributor has not voluntarily ordered;

(ii) To refuse to deliver in reasonable quantities and within a reasonable time after receipt of the distributor's order to any distributor having a franchise for the distribution and sale of malt beverages by such manufacturer, malt beverages covered by the franchise or contract. However, the refusal to deliver malt beverages shall not be considered a violation of this section if the refusal is due to failure of the distributor to pay the manufacturer pursuant to the contract, the distributor's insolvency, an act of God, work stoppage or delay due to a strike or labor difficulty, a bona fide shortage of materials, freight embargo or other cause over which the manufacturer, or any agent thereof, shall have no control;

(iii) To coerce or compel, or attempt to coerce or compel, a malt beverage distributor to enter into any agreement, whether written or oral, supplementary to an existing franchise with the manufacturer or officer, agent or other representative thereof, by threatening to cancel any franchise or any contractual agreement existing between the manufacturer and distributor. However, notice in good faith by a manufacturer to a malt beverage distributor of the distributor's violation or breach of any terms or provisions of a franchise or contractual agreement shall not constitute a violation of this act if the notice is in writing, is mailed by registered or certified mail to the distributor at his current business address, and contains the specific facts of the distributor's alleged violation or breach of the franchise or contractual agreement;

(iv) To terminate, cancel, fail to renew or refuse to continue the franchise of any distributor without good cause, as defined in this act. The nonrenewal of a franchise or selling agreement without good cause shall constitute an unfair termination or cancellation, regardless of the specified time period of the franchise or selling agreement;

(v) To discriminate, either directly or indirectly, in price, programs or terms of sale offered to franchisees, where the effect of the discrimination may be to substantially lessen competition among distributors or to give to one (1) holder of a franchise any competitive advantage over other holders of the same or similar franchise;

(vi) To prevent or attempt to prevent, by contract or otherwise, any malt beverage distributor from changing the capital structure of his distributorship or the means by or through which he finances the operation of his distributorship;

(vii) To require a malt beverage distributor to assent to a release, assignment, novation, waiver or estoppel which would relieve any person from liability imposed by this act. However, nothing in this section shall be construed to limit or prohibit good faith dispute settlements entered into by the parties;

(viii) To restrict or inhibit, directly or indirectly, the right of free association among manufacturers or distributors of malt beverage for any lawful purpose;

(ix) To fix or maintain the price at which a distributor may resell malt beverages;

(x) To coerce, or attempt to coerce, any distributor to accept delivery of any malt beverage or other commodity ordered by a distributor if the order was properly canceled by the distributor in accordance with the reasonable procedures of the manufacturer;

(xi) To change a distributor's quota of a brand or brands, if the change is not made in good faith;

(xii) To require a distributor, by any means, to participate in or contribute to any local or national advertising fund controlled directly or indirectly by a manufacturer;

(xiii) To take any retaliatory action against a distributor that files a complaint regarding an alleged violation by the manufacturer of state or federal law or an administrative rule;

(xiv) To require or prohibit without good cause any change in the manager or successor manager of any distributor who has been approved by the manufacturer as of the effective date of this act. Should a distributor change an approved manager or successor manager, a manufacturer shall not require or prohibit the change unless the person fails to meet the reasonable standards for similarly situated distributors of the manufacturer;

(xv) To sell or supply any brand or brand extension of malt beverages in this state to a licensed wholesaler other than the licensed wholesaler designated as the exclusive wholesaler for a specific territory for such brand or brand extension by the supplier in a written agreement, except that nothing in this paragraph shall prohibit a supplier from providing malt beverages to consumers in an area on such supplier's premises designated as a hospitality area, or from participating in consumer sampling or taste testing programs of brands of malt beverages not sold to licensed wholesalers in this state, or from otherwise operating as permitted by law;

(xvi) To require for any reason that a wholesaler purchase one (1) or more brands of malt beverages in order for the wholesaler to purchase another brand or brands of malt beverages.

(b) It shall be a violation of this act for a distributor, partner, shareholder or officer or agent thereof to have the

right to sell, transfer or assign the management or control ownership of greater than ten percent (10%) of a distributorship without the written consent of the manufacturer, except that the consent shall not be unreasonably withheld. No manufacturer shall unreasonably withhold or delay its approval of any assignment, sale or transfer of the stock of a distributor or of all or any portion of a distributor's assets, distributor's voting stock, the voting stock of any parent corporation or the beneficial ownership or control of any other entity owning or controlling a distributor, including the distributor's rights and obligations under the terms of an agreement, whenever the person to be substituted meets reasonable qualifications. For purposes of this subsection, "unreasonably withhold or delay" means a period in excess of ninety (90) days after receipt by the manufacturer of all information reasonably required from the wholesaler and purchaser. Upon the death or disability of one (1) of the officers, partners or stockholder of greater than ten percent (10%) ownership of a corporate distributorship operating the business of a distributor, no manufacturer shall deny the surviving officers, partners of the partnership or stockholders of the distributorship, the right to become a successor-in-interest to the agreement between the manufacturer and the distributorship, provided that the survivor has been active in the management of the distributor's business and is otherwise capable of carrying on the business of the distributorship. However, upon the death of a distributor, no manufacturer shall deny approval for any transfer of ownership to a designated member of the family of an owner of a distributorship, provided, that the subsequent transfer of ownership by the designated member shall thereafter be subject to the provisions of this subsection.

12-9-105. Distributor's resignation; cancellation; termination; failure to renew; refusal to continue.

(a) Notwithstanding any agreement and except as otherwise provided for in this act, a manufacturer shall not cause a distributor to resign from an agreement, or cancel, terminate, fail to renew or refuse to continue under an agreement unless the manufacturer has:

(i) Satisfied the applicable notice requirements of W.S. 12-9-108;

(ii) Acted in good faith; and

(iii) Good cause for the cancellation, termination, nonrenewal, discontinuance or forced resignation.

12-9-106. Good cause for terminating agreement; rights to cure.

(a) Notwithstanding any agreement, good cause shall exist for the purposes of a termination, cancellation, nonrenewal or discontinuance under W.S. 12-9-105(a)(iii) when all of the following occur:

(i) There is a failure by the distributor to comply with a provision of the agreement which is both reasonable and of material significance to the business relationship between the distributor and the manufacturer;

(ii) The manufacturer first acquired knowledge of the failure described in paragraph (i) of this subsection not more than two (2) years before the date notification was given pursuant to W.S. 12-9-105(a)(i);

(iii) The distributor was given written notice by the manufacturer of failure to comply with the agreement;

(iv) The distributor was afforded a reasonable opportunity to assert good faith efforts to comply with the agreement within the time limits provided for in paragraph (v) of this subsection; and

(v) The distributor has been afforded thirty (30) days in which to submit a plan of corrective action to comply with the agreement and an additional ninety (90) days to cure the noncompliance in accordance with the plan and has not cured the noncompliance within that time in accordance with the plan.

(b) Good cause shall exist for the purposes of termination, cancellation, nonrenewal or discontinuance under W.S. 12-9-105(a)(iii) when there occurs a violation of W.S. 12-9-109(a).

12-9-107. Burden of proof.

For each termination, cancellation, nonrenewal or discontinuance, the manufacturer shall have the burden of showing that it has acted in good faith, that the notice requirements and rights to cure under this act have been

complied with and that there was good cause for the termination, cancellation, nonrenewal or discontinuance.

12-9-108. Notice for terminating an agreement.

(a) Notwithstanding any agreement and except as otherwise provided in this act, the manufacturer shall furnish written notice of the termination, cancellation, nonrenewal or discontinuance of an agreement to the distributor not less than thirty (30) days before the effective date of the termination, cancellation, nonrenewal or discontinuance. In no event shall the contractual term of any agreement expire, without the written consent of the malt beverage distributor involved, prior to the expiration of at least thirty (30) days following the written notice. The notice shall be by certified mail and shall contain the following:

(i) A statement of intention to terminate, cancel, not renew or discontinue the agreement;

(ii) A statement of the reason for the termination, cancellation, nonrenewal or discontinuance; and

(iii) The date on which the termination, cancellation, nonrenewal or discontinuance takes effect.

12-9-109. Conditions and notice required.

(a) Notwithstanding W.S. 12-9-105 and 12-9-106, a manufacturer may immediately terminate, cancel, fail to renew, or discontinue an agreement if any of the following occur:

(i) Insolvency of the distributor, the filing of any petition by or against the distributor under any bankruptcy or receivership law, or the dissolution or liquidation of the wholesaler which materially affects the distributor's ability to remain in business;

(ii) Revocation of the distributor's license whereby the distributor cannot distribute malt beverages for more than sixty (60) days;

(iii) The distributor or an individual who owns more than ten percent (10%) of the stock of a corporate distributor has been convicted of a felony. As used in this paragraph, "felony" means a felony under the United States Code or laws of this state. However, an existing stockholder shall have the right to

purchase the stock of the offending stockholder, and, if the sale is completed within the thirty (30) day period, the provisions of this paragraph shall not apply. Any such purchase shall be subject to W.S. 12-9-104(a)(viii);

(iv) The distributor intentionally sells the supplier's products to a retailer or retailers outside that distributor's assigned territory;

(v) The distributor commits fraud as defined by W.S. 12-9-102(a)(viii) in his dealings with the manufacturer.

12-9-110. Discontinuance of production or distribution.

Notwithstanding W.S. 12-9-105, 12-9-108 and 12-9-109, a manufacturer may terminate, cancel, not renew or discontinue an agreement upon not less than thirty (30) days prior written notice if the supplier discontinues production or discontinues distribution throughout this state of all the brands sold by the manufacturer to the distributor. Nothing in this act shall prohibit a manufacturer, upon not less than thirty (30) days notice, to completely discontinue the distribution throughout this state of any particular brand or package of malt beverage. This section does not prohibit a manufacturer from conducting test marketing of a new brand of malt beverage or from conducting the test marketing of a brand of malt beverage which is not currently being sold in this state, provided that the manufacturer has notified the commission in writing of its plans to test market. The notice shall describe the market area in which the test shall be conducted, the name or names of the distributors who will be selling the malt beverage, the name or names of the brand of malt beverage being tested, and the period of time during which the testing will take place. A market testing period shall not exceed eighteen (18) months.

12-9-111. Effort required by distributor.

The distributor shall devote such efforts and resources to sales and distribution of all the manufacturer's products which the distributor has been granted the right to sell and distribute as reasonably required by the agreement between the manufacturer and distributor.

12-9-112. Waiver prohibited.

A distributor shall not waive any of the rights granted in any provision of this act. Nothing in this act shall be construed

to limit or prohibit good faith dispute settlements voluntarily entered into by the parties.

12-9-113. Agreement subject to act.

The provisions of this act shall apply to all agreements between a manufacturer and distributor entered into on or after the effective date of this act.

12-9-114. Agreements binding on successor.

A successor to a manufacturer that continues in business as a manufacturer shall be bound by all terms and conditions of each agreement of the manufacturer in effect on the date of succession.

12-9-115. Reasonable compensation.

(a) In the event that a distributor is terminated by a manufacturer in bad faith or for other than good cause, the distributor shall be entitled to additional compensation from the manufacturer for:

(i) The fair market value of any and all assets, including ancillary business assets of the distributor used in distributing the manufacturer's products;

(ii) The good will of the business.

(b) The total compensation to be paid by the manufacturer to the distributor shall be reduced by any sum received by the distributor from sale of assets of the business used in distribution of the manufacturer's products as well as by whatever value such assets may have to the distributor that are unrelated to the manufacturer's products.

(c) As used in this section, "fair market value" means the highest dollar amount at which a seller would be willing to sell and a buyer willing to buy when each possesses all information relevant to the transaction.

(d) In the event the manufacturer and the malt beverage distributor are unable to mutually agree on the reasonable compensation to be paid for the value of the distributor's business, as defined herein, the matter may by agreement of the parties be submitted to arbitration. If so submitted, the following shall apply:

(i) Arbitration shall proceed only if all parties agree in advance and submit the dispute to arbitration, and the decision of the arbitrators shall be final and binding if so agreed upon by the parties in advance of the arbitrator's proceedings;

(ii) The dispute shall be submitted to a panel of three (3) arbitrators, one (1) of which shall be selected by the supplier within thirty (30) days after the parties have agreed to arbitrate, one (1) of which shall be selected by the wholesaler within thirty (30) days after the parties have agreed to arbitrate, and one (1) of which shall be selected from a list of five (5) candidates supplied by the American Arbitration Association at the request of the parties within ten (10) days after the parties have agreed to submit the dispute to arbitration;

(iii) Within ten (10) days after receipt of the list supplied pursuant to paragraph (ii) of this subsection, the wholesaler and the supplier each may disqualify up to two (2) candidates from the list. The American Arbitration Association shall select the third arbitrator from the candidates not disqualified by the parties;

(iv) The arbitration shall proceed in accordance with the rules of the American Arbitration Association within thirty (30) days after the selection of the arbitration panel has been completed;

(v) The cost of the arbitration shall be borne equally by the parties. The award of a majority of the arbitrators shall be final and binding on the parties if so agreed upon in advance by the parties. The arbitrators shall not be permitted to award punitive damages and are bound to apply the terms and provisions of the agreement not in conflict with this act.

12-9-116. Remedies.

(a) During the thirty (30) day period provided in W.S. 12-9-108, either party, in appropriate circumstances, may bring an action in the appropriate court of this state pending a final determination of the proceedings on the merits.

(b) In any action brought under this act, the court shall have authority to grant temporary, preliminary and final injunctive relief.

(c) In addition to temporary, preliminary or final injunctive relief, any manufacturer or distributor who shall be aggrieved or injured in his business or property by reason of anything forbidden in this act may bring an action in the appropriate court of this state and may recover the damages sustained and the costs of the action, including a reasonable attorney's fee.

(d) In addition to any other remedy or relief to which a person is entitled, a distributor or manufacturer aggrieved by a violation of this act may bring an action to obtain a declaratory judgment that an act, action or practice violates this act and to enjoin a manufacturer or distributor who has violated, is violating or is otherwise likely to violate this act.

(e) In an action for money damages, if a judge or jury finds that the defendant acted maliciously, the judge or jury may award punitive damages as permitted by Wyoming law.

(f) The remedies provided in this section shall be in addition to any other remedies provided by law or in equity.

12-9-117. Contracts and the validity thereof.

No manufacturer shall effect any sale to a distributor in Wyoming except pursuant to a written contract between the manufacturer and the distributor.

12-9-118. Repurchase of inventory upon termination.

(a) Whenever any malt beverage distributor enters into a franchise agreement with a manufacturer in which the distributor agrees to maintain an inventory of malt beverages and the franchise is subsequently terminated, the manufacturer shall repurchase the inventory as provided in this act. If the distributor has any outstanding debts to the manufacturer, then the repurchase amount may be credited to the distributor's account.

(b) The manufacturer shall repurchase that inventory previously purchased from him and held by the distributor on the date of termination of the contract. The manufacturer shall pay one hundred percent (100%) of the distributor's laid-in cost, payable when the product is returned to the manufacturer free

and clear of all liens, claims and charges created or permitted by the distributor.

(c) Upon payment of the repurchase amount to the distributor, the title and right of possession to the repurchased inventory shall be transferred to the manufacturer.

(d) A distributor shall not keep any inventory except with the consent of the manufacturer and the distributor's agreement that such product will be maintained and sold in accordance with the manufacturer's product handling standards.

(e) If any manufacturer shall fail or refuse to repurchase any inventory covered under the provisions of this act within sixty (60) days after termination of a distributor's contract, he shall be civilly liable for one hundred percent (100%) of the current wholesale price of the inventory plus any freight charges paid by the distributor, the distributor's reasonable attorney's fees, court costs and interest on the current wholesale price computed at the legal interest rate.

12-9-119. Indemnification.

A manufacturer shall fully indemnify and hold harmless its distributor against any losses, including, but not limited to, court costs and reasonable attorney's fees or damages arising out of complaints, claims or lawsuits, including, but not limited to, strict liability, negligence, misrepresentation or express or implied warranty if the complaint, claim or lawsuit relates to a product liability claim pertaining to the manufacturing of a malt beverage product.

CHAPTER 10 MISCELLANEOUS

12-10-101. Possessing, purchasing or selling an alcohol without liquid device prohibited; exception; definition; penalties.

(a) Except as provided in subsection (b) of this section, no person shall possess, purchase, sell or offer to sell an alcohol without liquid device.

(b) This section shall not apply to a hospital that operates primarily for the purpose of conducting scientific research, a state institution conducting bona fide research, a private college or university conducting bona fide research or

to a pharmaceutical company or biotechnology company conducting bona fide research.

(c) Any person who violates subsection (a) of this section is guilty of a misdemeanor punishable by a fine of up to two hundred fifty dollars (\$250.00) for the first offense and not more than seven hundred fifty dollars (\$750.00), imprisonment for not more than six (6) months, or both, for second and subsequent offenses.

(d) Except as provided in subsection (b) of this section, any alcohol without liquid device found in Wyoming shall be confiscated and, after an opportunity for a hearing in a court of competent jurisdiction on the issue of whether the device is an alcohol without liquid device, shall be destroyed. The destruction of the device may be delayed if the device is needed for evidence in a criminal case.

(e) As used in this section "alcohol without liquid device" means a device, machine, apparatus or appliance that mixes alcoholic liquor with pure or diluted oxygen to produce an alcohol vapor that an individual can inhale. An alcohol without liquid device does not include an inhaler, nebulizer, atomizer or other device that is designed and intended by the manufacturer to dispense a prescribed or over-the-counter medication.