

# Violation Process

## What to Expect if You Receive a Violation

Erin Hinkel, Violation Program Manager  
Samuel McHenry, Assistant Utah Attorney General



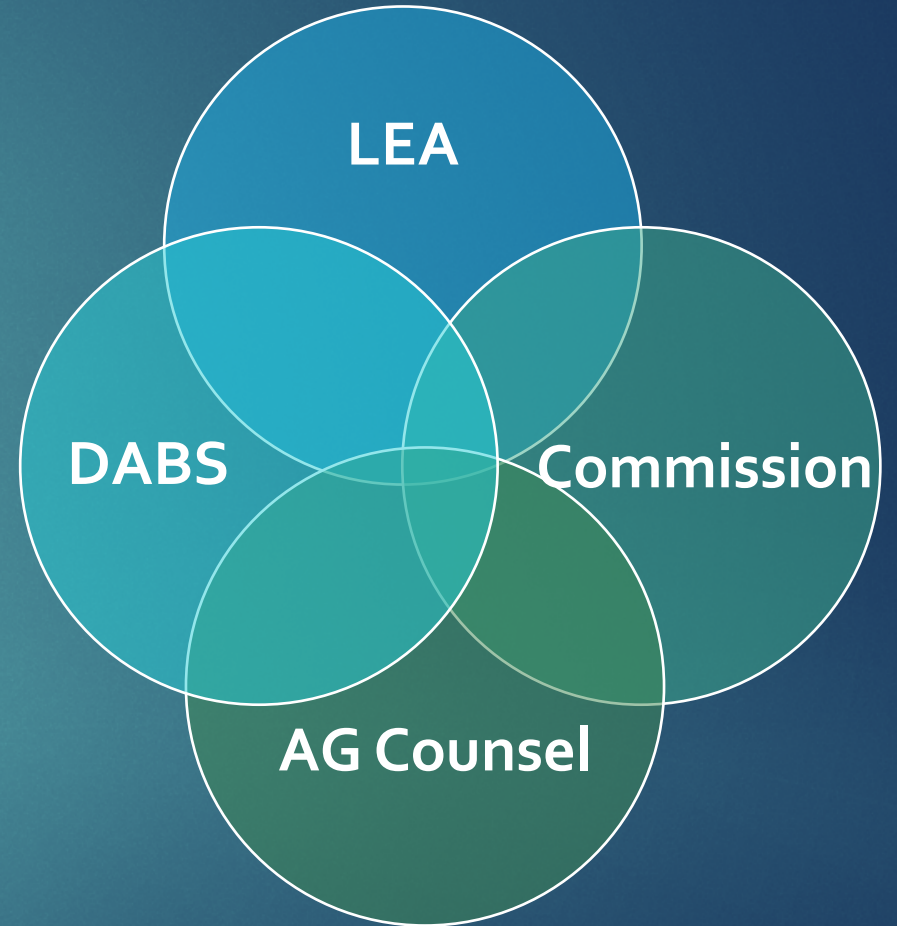
# Administrative Violation Process - A Collaborative Effort

**Law Enforcement Agencies** - enforce the state laws and regulations governing the sale and use of alcoholic beverages in a manner to protect the public.

**DABS** - regulatory administrative agency responsible for ensuring licensing & statutory compliance of all entities that sell alcohol in Utah.

**ABS Commission** - sole authority that grants licenses & imposes administrative sanctions against alcohol licensees.

**Assistant Attorney General**- legally represents DABS throughout the violation process.





# The Violation Process in a Nutshell



1. LEA compliance check-violation occurs

2. DABS receives violation report from LEA

3. Email notification sent to licensee

4. Notice of Agency Action (NOAA) prepared with pre-hearing date scheduled

5. Pre-hearing conference held to discuss a settlement

a. If the licensee disputes the violations or settlement offer, the case is sent to a hearing official, who hears testimony & oral argument & sends recommended findings to the ABS Commission.

b. If the licensee agrees, a settlement agreement is signed & forwarded to the ABS Commission.

6. The ABS Commission:

- Ratifies the agreement in a commission order at the commission meeting; or
- Exercises its plenary power to make a different decision than either the settlement agreement or the hearing officials' decision.

7. Adjudication report sent to DPS for reporting



# Compliance Checks and CUBS



As a licensee business partner, when you apply for an alcohol license you voluntarily consent to comply with alcohol beverage laws and commission rules. You agree to allow the entire premises and records to be inspected by the following:

- Commissioners
- Representatives of DABS
- Law enforcement Agencies

Law enforcement agencies can investigate sales to a minor violations by requesting a **Covert Underage Buyer (CUB)**. A CUB is a hired individual under 21 years old who is allowed by law to purchase alcohol from a retail establishment. Utah Code 77-39-101

State liquor stores are subject to CUB inspections too!



# Catch a CUB







# What to Expect if You Fail a Compliance Check...

1. A POLICE REPORT will be sent to DABS.
2. DABS must receive the report no more than EIGHT BUSINESS DAYS after the day on which the investigation is complete.
3. DABS must notify the licensee no more than EIGHT BUSINESS DAYS after the day on which the investigative report was received.
4. If the police report and evidence supports the violations, DABS will issue a Notice of Agency Action with a pre-hearing conference date scheduled.
5. The Assistant Attorney General may send out a settlement offer prior to pre-hearing conference.

# HOW TO CALCULATE THE MAXIMUM TIME

16  
BUSINESS  
DAYS

JULY 2022						
SUN	MON	TUE	WED	THU	FRI	SAT
					1 CUB INVESTIGATION COMPLETE	2
3	4 INDEPENDANCE DAY!	5 DAY 1	6 DAY 2	7 DAY 3	8 DAY 4	9
10	11 DAY 5	12 DAY 6	DAY 7	14 DAY 8 LEA REPORT SUBMITTED TO DABS	15 DAY 1	16
17	18 DAY 2	19 DAY 3	DAY 4	21 DAY 5	22 DAY 6	23
24	25 PIONEER DAY	26 DAY 7	27 DAY 8	28	29	30
31						



# Timing Matters

If DABS does not receive the police report within 8 business days (after the day on which the investigation is completed),

or

DABS doesn't notify the licensee within 8 business days (after the report is received), DABS may not pursue administrative action.





# Pre-Hearing Conferences

Encourage  
Settlement

Expedite  
Proceedings

Discussion

Clarify Issues

Reduce Costs

Explain What  
Happened

Simplify  
Evidence

Expedite  
Proceedings

Aggravating  
Factors

Mitigating  
Factors

Facilitate  
Discovery

Prevent Future  
Violations



# Violation Levels

- **Minor:** Relate to basic compliance with laws and rules.
- **Moderate:** General disregard for laws and rules.
- **Serious:** Directly/indirectly affect/potentially affect public safety, health, and welfare, or involve minors.
- **Grave:**
  - Pose or potentially pose a grave risk to public safety, health, and welfare
  - Involve lewd acts, fraud, deceit, willful concealment or misrepresentation of the facts, trade practice violations
  - Interfering or refusing to cooperate with authorized officials in the discharge of their duties.

**Grave**

**Serious**

**Moderate**

**Minor**



# Violation Grid for a Serious Violation 36-Month Period



**4<sup>th</sup> Violation is revocation of the license!**





# Employee Penalties

## Administrative (Serious Violation)

1 <sup>st</sup> Violation	2 <sup>nd</sup> Violation (Within 36 months)	2+ Occurrences (Within 36 months)
5 to 30-day suspension	10 to 90-day suspension	15 to 120-day suspension
Up to a \$300 fine	Up to a \$350 fine	Up to a \$700

## Criminal – Individual Employee

Class B Misdemeanor (For selling alcohol to a minor)	Class A Misdemeanor (Employee knows the actual age of the minor that is under the legal age to purchase)
Up to 6 months in jail	Up to 1 year in jail
Up to a \$1,000 fine	Up to a \$2500 fine

# Settlement Agreements

## Licensee Business Partner

- Fine and/or suspension listed
- Update RASP
- Contains fine amounts - but not costs
- Costs calculated closer to commission meeting
- Agenda emailed day before meeting
- Can be handled separately from the employee

## Employee

- Fine and/or suspension listed
- Total fine included
- If no longer employed by licensee, employees only option is the fine
- Employee must sign not employer
- Can be handled separately from licensee



# Language Services Available at No Cost



# RESPONSIBLE ALCOHOL SERVICE PLAN (RASP)



A written set of policies and procedures that outlines measures to prevent employees from a:

- Sale or serve alcohol to a minor
- Sale or serve to an intoxicated person
- Over-serving alcoholic beverages to customers

**Best Practices:** Be thoughtful, specific to your business model, review regularly with employees, update periodically, and make sure employees are adhering to the policies.



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Sales to an Intoxicated Person

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Employee Drinking/Intoxicated  
while on Duty

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Sales to minor

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Untrained server

Violation  
Trends

# Assess - Interview - Decide



Does the customer have a valid ID?

Does the customer appear to be old enough?

Does the customer appear intoxicated?



Interview

Casual conversation  
Avoid yes or no questions

Are ID questions answered correctly?

Check for slurred speech or the odor of alcohol



Do NOT sell if:

The customer is underage

No valid ID available

There are signs of intoxication



# Denying the Sale – A.I.M.M.



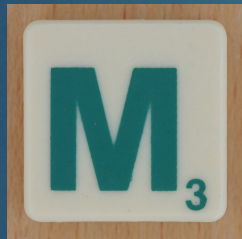
**Attitude**

Be pleasant, but also be firm and confident



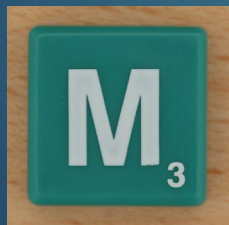
**Invoke the Law**

It's the law that won't let them buy; NOT YOU



**Move it**

Move the alcohol off the counter



**Move on**

Ring up other items

Ring up other customer



# ACCEPTABLE FORMS OF ID

for buying alcohol in Utah



State Driver License



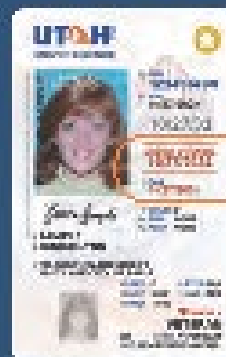
State Identification Card



Department of State

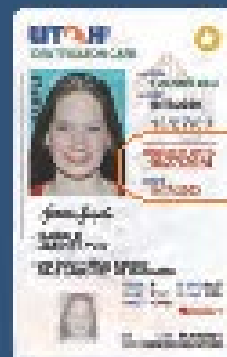


Passport  
(U.S. or international)



Check  
DOB

Horizontal State  
Driver License



Check  
DOB

Horizontal State  
Identification Card

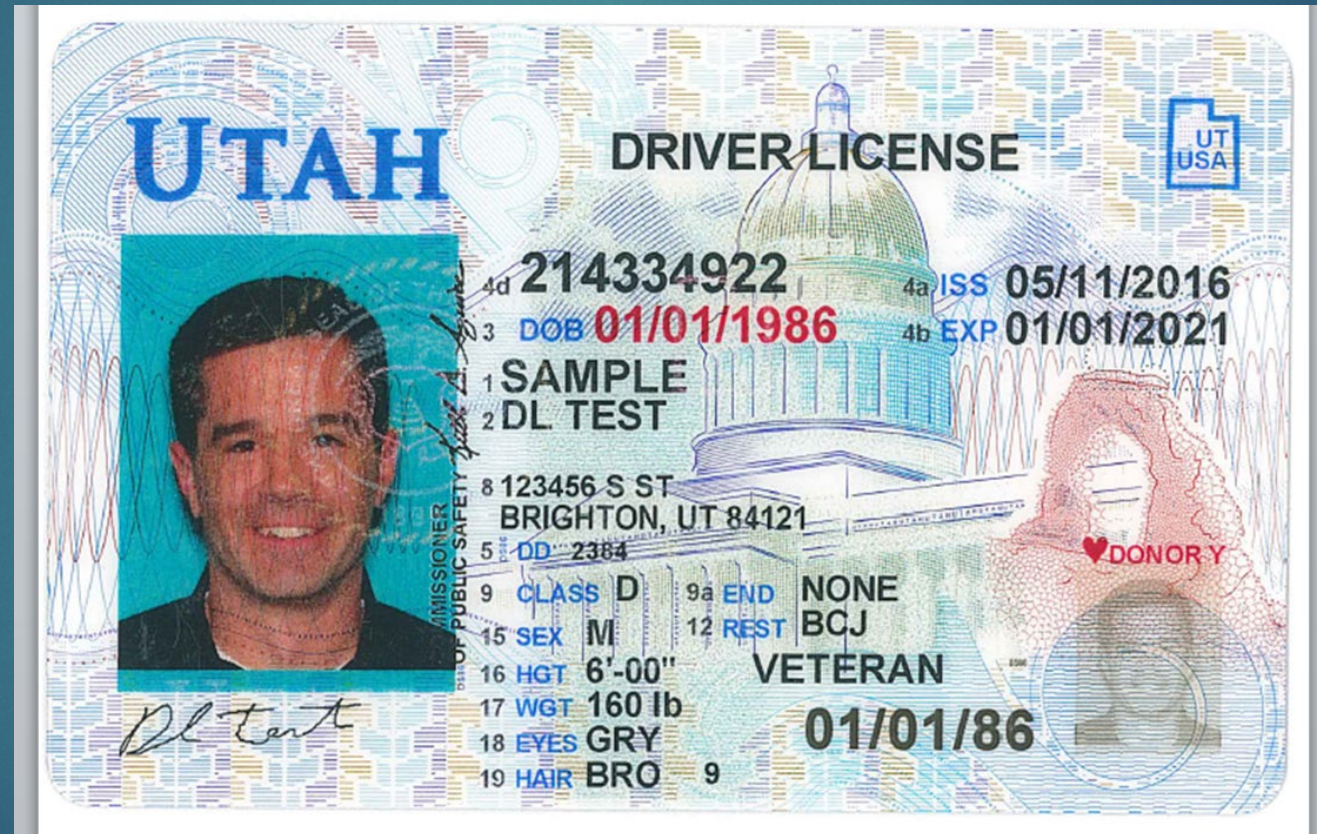


Military ID  
(U.S. or international)



# Regular ADULT Driver License

Horizontal (Landscape)





# The Minor Driver License

## NOTICE:

- \* Vertical or portrait style
- \* No math Necessary





# Alcohol Server/Seller Training

All Employees must take an alcohol training class approved by Department of Health and Human Services prior to serving, selling, or handling alcohol.

EFFECTIVE May 3, 2023



# Burden of Proof – Preponderance of Evidence

- Prove the violation more than likely occurred than not
- If licensee is disputing the violation, the matter will be referred to a hearing
- Licensee pays for the cost of hearing





# Administrative Hearings



Extremely rare

Informal setting, but testimony is taken under oath

Formal discovery is prohibited

Licensee is entitled to information in DABS files

Burden of proof = preponderance (51%)

Formal rules of evidence do not apply, but the H.O.:

- May exclude irrelevant information;
- May **not** exclude evidence solely because it's hearsay;
- Shall exclude privileged information (e.g., attorney-client);
- May receive copies of documents containing all pertinent portions of the original;
- May take official notice regarding things about which a judge could take judicial notice.

# Administrative Hearings Continued:

H.O. gives recommendations to commission

Licensee has 10 days to file objections

Commission Action

Licensee may present objections

Commission issues order

Licensee has 30 days to appeal





# Commission

# Meeting

- ✓ Licensee appearance required
- ✓ Employee does not have to appear
- ✓ Commission approval of settlement agreement
- ✓ Commission order issued
- ✓ Recognize licensees who passed compliance check

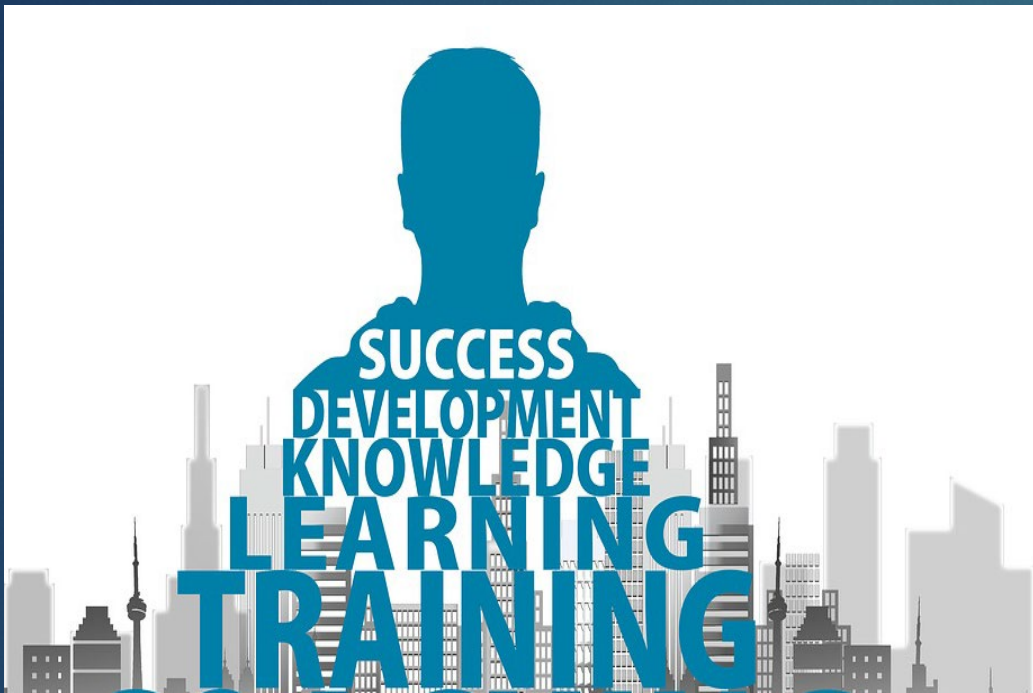


# How to Pay Violation Fees and Costs

- Mail check to DABS
- Pay at DABS with check, credit/debit card, or cash
- Make an over-the-phone payment by calling (801) 977-6882 – no cost
- Failure to pay on or before due date shall result in immediate suspension of license
- If payment is not received within 30 days of due date, an order to show cause why the license should not be revoked or bond forfeited will be issued







# Free Trainings

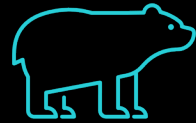
- Offered by DABS and SBI
- We are a resource and want to help
- A successful compliance check results in no violations



# Key Points



Understand the violation process



CUB inspections are allowed by law



Commission approval for violations



DABS appreciates our business partners



Questions?





# Thank You From DABS and the AG's Office



DABS Violation Program Manager Erin Hinkel  
[ehinkel@utah.gov](mailto:ehinkel@utah.gov)

Asst. Utah Attorney General Sam McHenry  
[ssmchenry@agutah.gov](mailto:ssmchenry@agutah.gov)

