

# **LICENSEE REFERENCE GUIDE**

## **TYPE 5 PACKAGE AGENCY**



### **UTAH DEPARTMENT OF ALCOHOLIC BEVERAGES SERVICES**

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Effective Date June 2022

# TO ALL PACKAGE AGENTS

As a package agent of the Utah Department of Alcoholic Beverages Services, you are required to be aware of the responsibilities, procedures, and potential liabilities regarding the sale and service of alcoholic beverages.

This reference guide has been prepared to help you with the lawful handling of alcoholic beverages. Please review this information and keep the handbook available for reference. This version of the handbook is current as of June 2022. Previously issued handbooks should be discarded as they may contain outdated information.

Our website ([abs.utah.gov](https://abs.utah.gov)) has information about the liquor laws and rules with direct links to the complete code and administrative rules, as well as information about stores and agencies, products and prices, server training, and other interesting links. The website is regularly updated. Please review the website for information and services as they are developed.

It is our responsibility, and we desire to be of service and assistance. If you have questions after consulting the handbook, please call 977-6800, write, or e-mail ([dabscompliance@utah.gov](mailto:dabscompliance@utah.gov)) to the compliance division of the DABS.

# TYPE 5 PACKAGE AGENCY

## RULES AND PROCEDURES



A type 5 package agency contract allows a distillery, winery or brewery the ability, at its manufacturing location, to sell to the general public for off-premise consumption, the packaged liquor products that it produces.

## WHAT IS A TYPE 5 PACKAGE AGENCY?

Type 5 package agencies are liquor outlets operated by private individuals under a contract with the Utah Department of Alcoholic Beverages Services for the purpose of selling packaged liquor, wine or heavy beer to licensees or the general public “to go” for consumption off the premises.



The package agency must be located within an approved manufacturing premises of a distillery, winery, or brewery. The manufacturer may sell only its own alcoholic beverage products. The bottles for sale may be moved directly from the storage area to the package agency location, provided that proper record keeping is maintained on forms approved by the department.



The agency operator is responsible for providing a building or sales space, paying all utilities and rent, supplying all fixtures, and paying any and all expenses incidental to the operation of the agency. A minor may not be employed in or permitted to operate a package agency.

The number of package agencies that may exist at any time is tied to the total population figure for the state. The number of agencies may not exceed the population of the state divided by 18,000.

## PROXIMITY REQUIREMENTS

A package agency may not be located too close to any of the following community locations: a public or private school, church, public library, or public park or playground. You must meet two types of measurements:

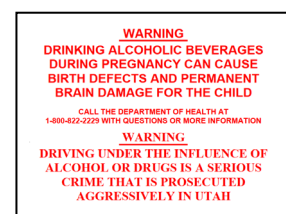
- 600 feet ordinary pedestrian travel – measurements are taken from the nearest patron entrance of the package agency using the shortest route of ordinary legal pedestrian travel to the nearest property boundary of the community location
- 200 feet straight line (as the crow flies) - measurements are taken from the nearest patron entrance of the package agency to the nearest property boundary of the community location

## DISPLAY SIGNS

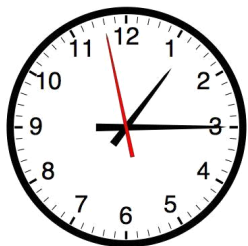
Every package agency must display in a prominent place the following signs:



- The WARNING sign – the template may be downloaded from our website at [dabs.utah.gov](http://dabs.utah.gov)
- A sign listing the days and hours of operation - posted near the entrance of the store
- The DABS package agency certificate



## DAYS AND HOURS OF OPERATION



The standard hours of operation of a package agency are from 10:00 a.m. to 12:00 Midnight, Monday through Saturday. However, a type 5 package agency, at the discretion of the package agent, may be open as early as 8:00 a.m. for sales to alcohol licensees, with the approval of the DABS. A type 5 package agency may also choose operational hours that are less than the standard hours noted above, at the discretion of the package agent and with the approval of the DABS.

Also, the type 5 package agency may be open on Sundays and state and federal holidays if the licensed manufacturing facility holds a bar, full-service, limited-service, or a beer-only restaurant license.

For Sunday and state and federal holidays, the package agency shall only be open during the hours the bar and/or restaurants are open. Any change in the hours of operation must have prior approval and must be submitted in writing.

If a legal holiday falls on a Sunday, the following Monday will be observed as the holiday. The legal holidays are:

- New Year's Day - January 1
- Martin Luther King's Day - third Monday in January
- President's Day - third Monday in February
- Memorial Day - last Monday in May
- Juneteenth National Freedom Day - June 19
- Independence Day - July 4
- Pioneer Day - July 24
- Labor Day - first Monday in September
- Veteran's Day - November 11
- Thanksgiving Day - fourth Thursday in November
- Christmas Day - December 25



## TEMPORARY CLOSURE OF MORE THAN 3 DAYS

You **MUST** notify DABS in writing, in advance of any closure, if you are going to be closed for more than 72 hours. The request must include:

- Dates of closure or cessation of operation
- Reason for the closure or cessation of operation
- Date on which the package agency will reopen or resume operation



In the case of an emergency closure, a package agency shall immediately notify the DABS by telephone or email. The DABS may authorize a closure for a period not to exceed 60 days. However, the DABS may extend the initial period an additional 30 days upon written request and upon a showing of good cause. A closure of operation may not exceed a total of 90 days without commission approval. Failure to provide notice and obtain DABS authorization before closure, or failure to resume operation by the approved date results in an automatic termination of the package agency agreement, effective immediately.

## SALES OF PRODUCTS TO LICENSEES

The image shows a form titled 'LQ5 FORM FOR SALES TO LICENSEES'. It contains several sections for recording sales information, including a table for 'SALES TO LICENSEES' with columns for 'DATE', 'QUANTITY', 'PRICE', and 'TOTAL'. There are also sections for 'SALES TO RETAIL' and 'SALES TO WHOLESALE'.

When sales are made from the package agency to a DABS licensed bar or restaurant, an LQ5 form must be completed and retained by the package agent. LQ5 forms must be ordered from the DABS. Direct deliveries from the package agency to retail licensees are not permitted. All alcoholic products must be purchased and picked up by the licensees or their authorized agents at the manufacturer's package agency site.



## ADVERTISING, PROMOTIONS, AND PRICE-LISTS

A type 5 package agency may advertise the location of their distillery, winery, or brewery, and may advertise the alcoholic beverage products they produce and sell at their package agency.



However, advertisements MAY NOT:

- Violate federal law
- Be false or misleading
- Be obscene or indecent
- Portray or imply illegal conduct or anti-social behavior
- Encourage over-consumption
- Overtly promote increased consumption or the high content of their alcohol
- Encourage or condone drunk driving
- Depict the act of drinking
- Promote or encourage the sale to minors, or use of alcohol by minors
- Be placed in media that is primarily targeting minors or appeals primarily to minors
- Portray drinking while engaged in activities requiring a high degree of alertness or physical coordination
- Represent that individuals can achieve success or solve problems by drinking
- Require the purchase, sale, or consumption of an alcoholic beverage to participate in any promotion, program, or other activity

More detailed information may be found on prohibited advertising on our website at [abs.utah.gov](http://abs.utah.gov) in the topics library.



A package agency may provide or post a price list inside the store for each item it has for sale. A printed list for the public may also be provided and price lists may be on the premises of the distillery, winery, brewery, or in the authorized tasting room.

A package agency may place signs in a window or on the front of the building that indicate the package agency site, and may provide a listing of the address and phone numbers in printed or electronic directories available to the public.



## PRICING

A type 5 package agency owns their entire inventory made at their manufacturing facility and offered for sale at their package agency. The DABS does not provide any alcoholic products to the package agency. However, the manufacturer may sell their alcoholic products to the DABS to be sold at state stores, retail licensees, or to the general public.

The process for setting the price of alcoholic beverages is based on the cost the manufacturer needs to make plus a certain percentage markup that goes to the school lunch program, administrative fees, and alcohol-related public safety programs.

All items must be sold at a price approved by the DABS. Pricing can also be changed, but still must go through the approval process. The DABS purchasing division will assist manufacturers with this process.



Additionally, the [DABS website contains a price calculator](#) to assist in calculating costs and prices.

### PRICE CALCULATOR

All price quotes are subject to change without notice

<b>Product Information</b>		
Case Quote: <input type="text" value="0"/>	Units/Case: <input type="text" value="0"/>	Price Effective Date: <input type="text" value="01/20/2021"/> ?
<b>Shipping</b>		
<input checked="" type="radio"/> Prepaid <input type="radio"/> Add Freight		
<b>Retail Type</b>		<b>Normal Unit Retail Type</b>
<input checked="" type="radio"/> Normal Retail <input type="radio"/> Beer <input type="radio"/> Beer PrepaidUtahTax <input type="radio"/> Small Winery/Distiller <input type="radio"/> Military <input type="radio"/> Small Brewery <input type="radio"/> Small Brewery PrepaidUtahTax		Retail Price: <input type="text" value="0"/>
		<input type="button" value="Calculate Unit Retail Price"/>
		<input type="button" value="Calculate Case Quote"/>

**NOTE: There is no discounting of alcohol nor advertising the discount of alcohol.**

## PACKAGE AGENCY FEES

The package agency billing cycle is based upon the State of Utah FINET (the Utah centralized accounting system) fiscal calendar.



The payment for a fiscal month's sales will be due 30 calendar days after the fiscal month ends. Fiscal month-end dates can be found on the [DABS fiscal calendars page](#).

Any account for which payment has not been received within the period noted above will be considered past due, and interest and penalties shall be applied to their outstanding balance.







# SALES RESTRICTIONS

Package agency employees are responsible for screening customers for anyone who may be restricted from purchasing alcohol because they are:

- **Underage**
- **Actually, Apparently, or Obviously Intoxicated**

A violation of these sections is a class B misdemeanor if the salesperson *negligently* sells alcohol to a restricted person, or a class A misdemeanor if the salesperson *knowingly* sells instead of just negligently. When in doubt refuse the sale.



## Refusing Sales to Persons Under the Influence of Alcohol or Drugs



The law states that "A person may not sell, offer to sell, or otherwise furnish or supply any alcoholic beverage or product to any person who is apparently under the influence of intoxicating alcoholic beverages, products, or drugs." Selling to an intoxicated person could have severe consequences.

An intoxicated person may display one or more of the following signs:



- Slow or poor judgment
- Confusion
- Lack of coordination or balance
- Bloodshot or droopy eyes or facial expressions
- Strong odor of alcohol from their person or on their breath
- Slurred speech
- Loud, obnoxious, or abusive behavior

Other signs may also be apparent, but usually, a law enforcement officer would need to be called to verify other evidence of impairment.

## Refusing Sales to Minors

Under Utah law, a "minor" means any person under the age of twenty-one. The department requires that package agency employees check the ID of every customer of questionable age. All Utah minor driver's licenses and ID cards are in the portrait (vertical) format and no math is necessary to determine their age. RED FLAGS if you receive a minor ID. Check carefully.



# ACCEPTABLE FORMS OF ID

Only five forms of ID are acceptable, and all must include a date of birth and a photo.

- A valid driver's license authorized from any state or U.S. territory
- A valid identification card authorized from any state or U.S. territory
- A valid military ID
- A valid passport from any country
- A valid US Department of State DL



## ID NOT VALID for Proof of Age:

- Driver Privilege Card issued in accordance with Section 53-3-207 is NOT valid for proof of age, as specifically stated under 32b-1-102 (81)(b).
- Concealed Carry Permit
- Euro Card or Driver License from outside of the United States
- Green Card, Consular Card, Non-US Passport Card, or any identification card that does not fit the statute specifically.

**NOTE:** Only U.S. Citizens may use an official passport card. No passport cards are allowed from other countries



Remember: The key word in the proof of age laws is the word "valid."  
No identification is acceptable that is expired, unlawfully gained or in any other way questionable.

# DEPARTMENT AUDITS

DABS Compliance Specialists are required to audit all package agencies to ensure they are being operated in compliance with state statutes, rules, and package agency contracts. The DABS will provide advanced notice to the package agent of an upcoming audit and the notification will include an audit letter with a checklist detailing the items to be reviewed.

- A detailed list of products
- Current package agency inventory
- Floorplan
- Proper signage - warning sign, hours of operation, etc.
- Transfer information from manufacturing to the package agency (minimum of three months). For breweries that have multiple locations, this will include any transfers between the package agencies.
- Reported sales to walk-in customers and licensees. This will include sales to on-premises tasting rooms.
- Current public liability insurance ACORD certificate
- Package agency liquor bond