**DIVISION SIX – GENERAL LIABILITY**

45. LIQUOR LIABILITY COVERAGE (Subline Code 332)

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Paragraph **G.5.** is replaced by the following:

G. Liquor Liability Grades

**5.** The Liquor Liability Numerical Grade is 0 for businesses licensed to sell beer at retail only for off-premise consumption. A Liquor Liability Numerical Grade of 6 applies for all other establishments.

Citation of Law: UTAH CODE ANN. Section 32B-15-201 *et seq*.

Comments:

The statute provides, in part, that any person who directly gives, sells or otherwise provides an alcoholic product to one of the following persons, as part of the commercial sale, storage, service, manufacture, distribution or the consumption of an alcoholic product, and by those actions causes the intoxication of the person, is liable for injuries in person, property or means of support to any third person, or the heir of the third person (generally a spouse, child or parent of the third person), if the injury (or death) results from the intoxication of the individual who is provided the alcoholic product:

**⚫** Any person under 21 years old;

**⚫** Any person apparently under the influence of an alcoholic product or drug;

**⚫** Any person whom the person furnishing the alcoholic product knew or should have known from the circumstances was under the influence of an alcoholic product or drug; or

**⚫** Who is a known interdicted person.

The statute further provides, in part, it is prima facie evidence that a person is liable under the above referenced provisions for such injury or death that results from the intoxication of an individual if:

**⚫** The person directly gives, sells or otherwise provides the individual the last alcoholic product the individual consumes before the injury or death;

**⚫** The individual consumes the alcoholic product at the location where the person directly gives, sells or otherwise provides the individual the alcoholic product;

**⚫** The injury or death occurs within 30 minutes after the time at which the individual leaves, and within a 10-mile radius of, the location where the person gives, sells or otherwise provides the individual the alcoholic product; and

**⚫** The individual is charged with a criminal violation of UTAH CODE ANN. Section 41-6a-502 for driving under the influence of an alcoholic product in relation to the injury or death.

The "6" designation reflects the fact that the total amount of damages that may be awarded to any person pursuant to a cause of action arising under the statute is limited to $1,000,000 and the aggregate amount which may be awarded to all persons injured as a result of any one occurrence is limited to $2,000,000. It should also be noted that the Supreme Court of Utah ruled in *Reeves v. Gentile,* 813 P.2d 111 (Utah, 1991) that the Dram Shop Act allowed a cause of action against each establishment that served patrons in their intoxicated condition and, thus, the jury could award up to $100,000\* against each tavern owner.

In addition, the Supreme Court in *Red Flame v. Martinez,* 996 P.2d 540 (Utah, 2000) ruled that the comparative fault statute (UTAH CODE ANN. Sects. 78-27-37 and 78-27-38) permits recovery by the at-fault vendor against the intoxicated person who directly caused the injury.

\* Case was decided when limitation was $100,000.

**DIVISION TEN – BUSINESSOWNERS**

29. ENDORSEMENTS

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Paragraph **B.13.b.(4)** is replaced by the following:

b. Liquor Liability Grades

**(4)** The Liquor Liability Numerical Grade is 0 for businesses licensed to sell beer at retail only for off-premise consumption. A Liquor Liability Numerical Grade of 6 applies for all other establishments.

Citation of Law: UTAH CODE ANN. Section 32B-15-201 *et seq.*

Comments:

The statute provides, in part, that any person who directly gives, sells or otherwise provides an alcoholic product to one of the following persons as part of the commercial sale, storage, service, manufacture, distribution or consumption of an alcoholic product, and by those actions causes the intoxication of the person, is liable for injuries in person, property or means of support to any third person, or the heir of the third person (generally a spouse, child or parent of the third person), if the injury (or death) results from the intoxication of the individual who is provided the alcoholic product:

⚫Any person under 21 years old;

⚫Any person apparently under the influence of an alcoholic product or drug;

⚫Any person whom the person furnishing the alcoholic product knew or should have known from the circumstances was under the influence of an alcoholic product or drug;

⚫ Who is a known interdicted person.

The statute further provides, in part, it is prima facie evidence that a person is liable under the above referenced provisions for such injury or death that results from the intoxication of an individual if:

**⚫** The person directly gives, sells or otherwise provides the individual the last alcoholic product the individual consumes before the injury or death;

**⚫** The individual consumes the alcoholic product at the location where the person directly gives, sells or otherwise provides the individual the alcoholic product;

**⚫** The injury or death occurs within 30 minutes after the time at which the individual leaves, and within a 10-mile radius of, the location where the person gives, sells or otherwise provides the individual the alcoholic product; and

**⚫** The individual is charged with a criminal violation of UTAH CODE ANN. Section 41-6a-502 for driving under the influence of an alcoholic product in relation to the injury or death.

The "6" designation reflects the fact that the total amount of damages that may be awarded to any person pursuant to a cause of action arising under the statute is limited to $1,000,000 and the aggregate amount which may be awarded to all persons injured as a result of any one occurrence is limited to $2,000,000. It should also be noted that the Supreme Court of Utah ruled in *Reeves v. Gentile,* 813 P.2d 111 (Utah, 1991) that the Dram Shop Act allowed a cause of action against each establishment that served patrons in their intoxicated condition and, thus, the jury could award up to $100,000\* against each tavern owner.

In addition, the Supreme Court in *Red Flame v. Martinez,* 996 P.2d 540 (Utah 2000) ruled that the comparative fault statute (UTAH CODE ANN. Sects. 78-27-37 and 78-27-38) permits recovery by the at-fault vendor against the intoxicated person who directly caused the injury.

\* Case was decided when limitation was $100,000.

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