
M E M O R A N D U M

DATE: September 16, 2009
TO: City Council Members
FROM: Russell Weeks, Gail Meakins
RE: Proposed Ordinance Amending the Definition of “Private Club” in *Salt Lake City Code* Section 5.50.010 to Make the Definition Conform with State Law
CC: Cindy Gust-Jenson, David Everitt, Ed Rutan, Frank Gray, Mary De La Mare-Schaefer, Bob Farrington, Karen Hale, Matt Lyon, Jennifer Bruno, Laura Kirwan, Janice Jardine.

This memorandum pertains to a proposed ordinance that would bring the City’s current definition of “private clubs” in the *Salt Lake City Code* into conformance with the State of Utah’s definitions of “dining clubs” and “social clubs.” The State’s definitions went into effect July 1 as a result of the Utah Legislature’s passage of Senate Bill 187 earlier this year.

The proposed ordinance is scheduled for a briefing at the City Council work session September 22. The work session will be held in the Committee of the Whole Room (Room 315) in the City & County Building, 451 South State Street.

OPTIONS

- Adopt the proposed ordinance.
- Do not adopt the proposed ordinance.

POTENTIAL MOTIONS:

- I move that the City Council adopt the ordinance amending *Salt Lake City Code* Section 5.50.010 to include in its definition of “private club” clubs that are licensed by the state pursuant to *Utah Code* Section 32A-5-101 and electronically verify proof of age pursuant to *Utah Code* Section 32A-1-304.5.
- I move that the City Council consider the next item on the agenda.

KEY POINTS

- If adopted, the proposed ordinance would bring Salt Lake City Code into conformance with Utah Law in defining “dining clubs” and “social clubs” – businesses that sell alcoholic beverages either as part of a club that derives 50 percent

of its revenue from the sale of food or that do not meet the criterion for food sales revenue.

- Salt Lake City Code Chapter 5.50 regulates private clubs and associations, including those clubs that do not sell alcoholic beverages. The year 1999 appears to be the last time sections in Chapter 5.50 that pertain to the sale of alcoholic beverages were amended.

ISSUES/POTENTIAL QUESTIONS FOR CONSIDERATION

- Definitions pertaining to private clubs in the Salt Lake City Code are not consistent with Utah law, and the Administration indicates that the proposed amendment would bring the City Code into conformance with Utah law.
- Additional changes and modifications to other City ordinances regulating the sale of alcoholic beverages are not addressed in the proposed amendment.
- It probably should be noted that there is an erratum in the last line of Section 5.50.010 titled *Private Club or Association Defined*. The section references *Utah Code Section 32A-1-3054.5*. The actual reference is Section 32A-1-304.5. The item probably is something the City Attorney's Office can correct without a formal amendment from the City Council.

BACKGROUND/DISCUSSION

The Utah Legislature passed Senate Bill 187 in the Legislature's 2009 session, and then-Governor Jon Huntsman Jr. signed the bill into law on March 30. The bill ended the State's requirement that private clubs that serve alcohol require people to join the clubs as members. However, another section of the bill required private clubs that serve alcohol to require proof of age from customers who appear to be younger than age 35 and to verify the proof of age electronically

Ending the requirement that customers of private clubs buy memberships to those clubs was one of the main points of the Legislature's substantial revisions to state laws regulating the sale of alcoholic beverages. A lesser point, perhaps, was to change the definition of private clubs from "Class C" or "Class D" private club licenses to "dining clubs" and "social clubs." Again, the difference between a "dining club" and a "social club" is a dining club generates 50 percent of its revenue from the sale of food, and a social club does not.

As indicated, the section of the Salt Lake City Code regulating the sale of alcoholic beverages at private clubs does not appear to have been amended since 1999. Its definitions of private clubs where alcoholic beverages are sold are out of synchronization with the State's new law. According to the Administration, the proposed amendment would bring the definitions into harmony with the new law. However, the proposed amendment would not address any other changes the Administration contemplates to the City's regulation of alcoholic beverages.

Chapter 5.50

PRIVATE CLUBS AND ASSOCIATIONS

5.50.010: PRIVATE CLUB OR ASSOCIATION DEFINED:

"Private club or association", as used in this chapter, shall be defined to be any social club, recreational or athletic association or kindred association, whether incorporated or not, which maintains clubrooms, regular meeting rooms or facilities within the city limits and restricts such facilities and activities to a clientele or group other than the general public. (Prior code § 20-29-1)

5.50.020: LICENSE REQUIRED:

It is unlawful for any private club to operate within the city without first obtaining a license. (Prior code § 20-29-2)

5.50.030: LICENSE; APPLICATION; ISSUANCE CONDITIONS:

- A. Each applicant for a license under this chapter shall at the time of such application and each time the license is renewed, file with the license supervisor a statement upon a form furnished by the city, signed under oath by the applicant and addressed to the mayor. The statement shall identify the applicant as a natural person, partnership, corporation or association, its location and general purpose, and it shall also contain the following information on the individual owner, and the applicant's manager if such applicant is a natural person applying for a license to operate as a sole proprietorship, and on each officer, director, partner, associate and manager if such applicant is a partnership, corporation or association:
1. The date and place of the applicant's birth;
 2. A statement as to the applicant's national citizenship and place of residency;
 3. A list of three (3) persons residing in the city who can attest to the applicant's honesty, good reputation and good moral character;
 4. The date, offense and jurisdiction of the applicant's conviction for each and every felony or misdemeanor involving moral turpitude;
 5. Whether or not the applicant has ever been denied a license to sell or otherwise dispense beer or liquor by any federal, state, county, city or other local governmental entity, and all pertinent information relating thereto including the dates and jurisdictions involved.

Title/Chapter/Section:

Utah Code

Title 32A Alcoholic Beverage Control Act

Chapter 1 General Provisions

Section 304.5 Verification of proof of age by certain club licensees.

32A-1-304.5. Verification of proof of age by certain club licensees.

(1) For purposes of this section, "applicable club licensee" means the following as defined in Section **32A-5-101**:

- (a) a dining club licensee; or
- (b) a social club licensee.

(2) Notwithstanding any other provision of this part, an applicable club licensee shall require that a person authorized to sell or otherwise handle an alcoholic beverage or alcoholic product under the applicable club license verify proof of age as provided in this section.

(3) A person described in Subsection (2) is required to verify proof of age under this section before an individual who appears to be 35 years of age or younger:

- (a) gains admittance to the premises of a social club licensee; or
 - (b) procures an alcoholic beverage or alcoholic product on the premises of a dining club licensee.
- (4) To comply with Subsection (3), a person shall:

- (a) request the individual present proof of age; and
- (b) (i) verify the validity of the proof of age electronically under the verification program created in Subsection (5); or

(ii) if the proof of age cannot be electronically verified as provided in Subsection (4)(b)(i), request that the individual comply with a process established by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) The commission shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an electronic verification program that includes the following:

(a) the specifications for the technology used by the applicable club licensee to electronically verify proof of age, including that the technology display to the person described in Subsection (2) no more than the following for the individual who presents the proof of age:

- (i) the name;
- (ii) the age;
- (iii) the number assigned to the individual's proof of age by the issuing authority;
- (iv) the birth date;
- (v) the gender; and
- (vi) the status and expiration date of the individual's proof of age; and

(b) the security measures that must be used by an applicable club licensee to ensure that information obtained under this section is:

- (i) used by the applicable club licensee only for purposes of verifying proof of age in accordance with this section; and
- (ii) retained by the applicable club licensee for seven days after the day on which the applicable club licensee obtains the information.

(6) (a) An applicable club licensee may not disclose information obtained under this section except as provided under this title.

(b) Information obtained under this section is considered a record for any purpose under Section **32A-5-107**.

SALT LAKE CITY CORPORATION

EDWIN P. RUTAN, II
CITY ATTORNEY

LAW DEPARTMENT

RALPH BECKER
MAYOR



David Everitt, Chief of Staff

CITY COUNCIL TRANSMITTAL



Date Received:

Date sent to Council: 07/10/2009

TO: Salt Lake City Council
Carlton Christensen, Chair

DATE: July 7, 2009

FROM: Edwin Rutan, City Attorney 

SUBJECT: Private Clubs and Alcoholic Beverage Control

STAFF CONTACT: Laura Kirwan, Senior Attorney, ext. 7685

DOCUMENT TYPE: Ordinance

RECOMMENDATION: That the Council pass the ordinance amending the definition of a private club in Section 5.50.010 of the City Code.

BUDGET IMPACT: None

BACKGROUND DISCUSSION: Effective July 1, 2009, amendments to State law permit a newly defined "dining club" or "social club" to serve alcohol to the general public provided that they comply with new state requirements for verifying the age of patrons. The state amendments further provided that the holders of state Class C or Class D licenses as of June 30, 2009 have their state licenses automatically converted to the new dining club and social club classifications as of July 1st.

The City's definition of a "private club" in SLCC Section 5.50.010 needs to be amended to conform to the State law changes. The current definition of a "private club" in the City Code is limited to clubs that serve patrons "other than the general public." The proposed amendment expands the current definition to include the new "social club" and "dining club" classifications, which are allowed to serve the general public under State law.

The proposed amendment is limited to this technical update. It does not address substantive changes that may be proposed by the Administration in the future, nor does it include a broader updating of the procedures in Titles 5 and 6 of the City Code.

PUBLIC PROCESS: None

Ordinance No. _____ of 2009

(Amendment to Section 5.50.010, *Salt Lake City Code*, defining the term “private club” to be in conformance with changes to state law)

An ordinance amending Section 5.50.010, *Salt Lake City Code*, defining the term “private club” to include clubs that are licensed by the state pursuant to Section 32A-5-101 of the Utah Code and electronically verify proof of age pursuant to Section 32A-1-304.5 of the Utah Code.

WHEREAS, the Legislature has recently enacted and the Governor has approved SB 187 which includes modifications to Chapter 5 (Private Club Liquor Licenses) of the Alcoholic Beverage Control Act, Section 32A-5-101 *et seq.*, Utah Code Ann. (2009), and

WHEREAS, SB 187 eliminated the membership requirement for private clubs, and reclassified private clubs as social clubs, dining clubs, equity clubs and fraternal clubs, and

WHEREAS, class B private clubs under city ordinance are analogous to class C private clubs under state law, and class C private clubs under city ordinance are analogous to class D private clubs under state law, and

WHEREAS, SB 187 provided in Section 32A-5-109, Utah Code Ann. (2009) that existing class C and class D private club licenses automatically convert to dining club and social club licenses as of July 1, 2009, and

WHEREAS, the City Council wishes to amend the definition of “private club” in Section 5.50.010 of the City Code to reflect the changes in state law.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Salt Lake City, Utah, as follows:

SECTION 1. That Section 5.50.010, *Salt Lake City Code*, be amended as follows:

5.50.010: PRIVATE CLUB OR ASSOCIATION DEFINED:

"Private club or association", as used in this chapter, shall be defined to be any social club, recreational or athletic association or kindred association, whether incorporated or not, which maintains clubrooms, regular meeting rooms or facilities within the city limits and restricts such facilities and activities to a clientele or group other than the general public. For use in this code, "private club or association" shall also include any club licensed by the state pursuant to Section 32A-5-1-101, Utah Code Ann. (2009) and successor provisions, that electronically verifies proof of age as required by Section 32A-1-3054.5, Utah Code Ann. (2009) and its successor provisions.

SECTION 2. This ordinance shall become effective upon signature.

Passed by the City Council of Salt Lake City, Utah this _____ day of _____, 2009.

CHAIRPERSON

ATTEST:

CITY RECORDER

APPROVED AS TO FORM
Salt Lake City Attorney's Office

Date

By

7/2/09
[Signature]

Transmitted to Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

CITY RECORDER
(SEAL)

Bill No. _____ of 2009.

Published: _____.

HB_ATTU-#9081-v1-amending_5_50_010_definition_of_private_club.DOC

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CHAIRPERSON

ATTEST:

CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

CITY RECORDER
(SEAL)

Bill No. _____ of 2009.

Published: _____.

HB_ATTU-#9081-v1-amending_5_50_010_definition_of_private_club.DOC