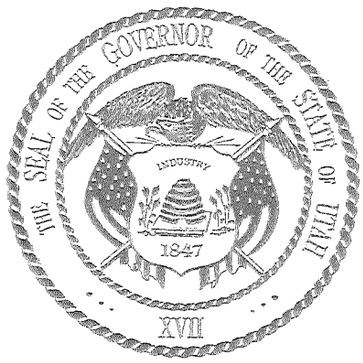

Gary Richard Herbert

Governor

EXECUTIVE ORDER

Temporarily Suspending Utah Administrative Code R82-2-201 Regarding Liquor Returns, Refunds and Exchanges

WHEREAS, On March 6, 2020, Governor Gary R. Herbert issued an Executive Order declaring a state of emergency due to novel coronavirus disease 2019 (COVID-19);

WHEREAS, On March 11, 2020, the World Health Organization characterized the COVID-19 outbreak as a pandemic;

WHEREAS, On March 13, 2020, President Donald J. Trump declared a national state of emergency based on the continuing spread of COVID-19;

WHEREAS, On March 15, 2020, the Summit County Health Officer issued a Public Health Order requiring all restaurants, coffee shops, tea shops, employee cafeterias, self-serve buffets, salad bars, unpackaged self-serve food services, bars, taverns, nightclubs, private liquor clubs, and saloons in Summit County to cease all dine-in food service, effective at 5:00 p.m. on March 15, 2020;

WHEREAS, On March 16, 2020, the Salt Lake County Mayor and the Salt Lake County Health Department Executive Director issued a Public Health Order requiring all food service, restaurants, self-serve buffets, salad bars, unpackaged self-serve food services, bars, taverns, nightclubs, private liquor clubs, and saloons in Salt Lake County to close to members, guests, patrons, customers, and the general public, and to cease all dine-in food service effective at 11:00 p.m. on March 16, 2020;

WHEREAS, on March 17, 2020, the Executive Director of the Utah Department of Health issued a State Public Health Order requiring all food service, restaurants, self-serve buffets, salad bars, unpackaged self-serve food services, bars, taverns, nightclubs, private liquor clubs, and saloons in the state of Utah to close to members, guests, patrons, customers, and the general public, and to cease all dine-in food service effective at 11:59 p.m. on March 18, 2020;

WHEREAS, Utah Administrative Code R82-2-201 governs all liquor returns, refunds, and exchanges, and mandates that wine and beer, due to their perishable nature and susceptibility to temperature changes, should be accepted at a DABC store with caution;

WHEREAS, Utah Administrative Code R82-2-201(2)(b)(iv) requires returns of more than $500 to be processed via check, which may take several weeks;

WHEREAS, The aforementioned businesses will not be permitted to sell liquor for consumption on their premises while the public health orders are effective;

WHEREAS, Strict compliance with Utah Administrative Code R82-2-201 would substantially prevent, hinder, or delay necessary action in coping with the economic impact of the emergency;

WHEREAS, Returning liquor to the Department of Alcoholic Beverage Control (DABC) is necessary for businesses to cope with the economic impact of COVID-19;

WHEREAS, Utah Code § 53-2a-209(3) authorizes the governor to suspend by executive order the provisions of any order, rule, or regulation of any state agency, if the strict compliance with the provisions of the order, rule, or regulation would substantially prevent, hinder, or delay necessary action in coping with an emergency or disaster;

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary to secure compliance with orders made pursuant to part 2 of the Emergency Management Act;

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the suspension and enforcement of Utah Administrative Code R82-2-201, to the extent that the provisions prohibit or strongly discourage the DABC from accepting returns of wine, heavy beer, cream-based spirits or liqueurs, and other distilled spirits.

The DABC shall accept a return by a DABC licensee of distilled spirits, wine, heavy beer, cream-based spirits or liqueurs, and other distilled spirits not acquired through the DABC's special order program (hereinafter, a "product") and shall waive the restocking fee for the return of the product if the licensee:

1. provides for each product a purchase receipt dated no earlier than March 2, 2020 and no later than March 18, 2020;

2. returns each product in an unopened and sealed condition;

3. schedules an appointment with a DABC store and returns the product to the DABC store (product purchased at a package agency may be returned only to a DABC store); and

4. complies with any other return processes, such as filling out required forms, implemented by the DABC.

I further suspend Utah Administrative Code R82-2-201(2)(b)(iv), which provides that returns exceeding $500 will be processed via check mailed to the customer. DABC shall provide refunds in the manner it determines best serves the interests of the Department and the licensee.

This Order shall remain in effect through April 1, 2020.

IN TESTIMONY, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 18th day of March 2020.

Gary R. Herbert
Governor

Attest:

Spencer J. Cox
Lieutenant Governor

2020/004/EO