

Department of Alcoholic Beverage Control  
 Report to the Executive Appropriations Committee  
 Tuesday, August 14, 2012

**SB66**

Provision	Section	Action Taken
Changes the Alcoholic Beverage Control Commission to a seven member commission	32B-2-201	Awaiting appointment of new members by the Governor.
Addresses removal of commission members and chair	32B-2-201	No action required on part of the DABC.
Creates subcommittees of the commission	32B-2-201.5	A temporary Compliance, Licensing, and Enforcement subcommittee has been created under advice of counsel so that new practices brought about by the law can be followed. Permanent subcommittees will be created once all commission members are appointed.
Clarifies that the commission's policy authority is to be consistent with the policy established by the Legislature by Statute	32B-2-202	DABC will work collaboratively with the commission to ensure policy is consistent with the statutes.
Provides for appointment and termination of the director	32B-2-205	No action required on part of the DABC.
Addresses appointment of interim director	32B-2-205	Sal Petilos was named interim director at June's commission meeting and is awaiting senate confirmation.
Imposes terms on the length of time a director serves	32B-2-205	No action required on part of the DABC.
Provides for the hiring and firing of upper management only with the approval of the commission	32B-2-207	Using process outlined in statute. Offer to a candidate for an AD position held in abeyance until the department received commission approval in open meeting.
Addresses prohibited interests, relationships, and actions	32B-2-209	DABC policy 07-04 (Conflicts of Interest) was updated in July, 2012 to include purchasing employees. Policy 07-15 (Ethics Policy) states that employees shall avoid the appearance of impropriety and includes prohibitions on acceptance of gifts regardless of value.
Created the Alcoholic Beverage Control Advisory Board	32B-2-210	DABC has informed the commission of the requirement for this board. It will be put into place once all seven members of the commission are appointed.
Addresses application of Utah Procurement Code	32B-2-302	DABC is not required to obtain competitive bids when purchasing liquor, but the procurement code is followed for all other goods and services.
Addresses audits	32B-2-302	DABC is preparing for an annual financial audit and biannual State Auditor audit. The department has begun coordination with the Division of Finance and State Auditor to ensure financial statements are complete and presented correctly and the agency has a strategic plan in place.

Provides for an internal audit division	32B-2-302.5	DHRM has created a DPR for the internal auditor position and is ready for recruitment. The position will be hired by the commission once all seven members are appointed.
Addresses requirements for package agency agreements	32B-2-605	Package agency policies have been updated to include procedures to be followed in the case of non-payment. The Department has also started a Covert Underage Buyer program with Package agencies and included this practice in package agency policies.
Requires a hearing by a hearing examiner of a department recommendation to not renew a licensee	32B-3-204	No action has been taken by DABC. The statute clearly defines hearings and hearing examiners, and is very specific as to when a hearing for non-renewal should occur. The department does not anticipate drafting rules unless discussions with the Alcoholic Beverage Advisory Board reveals a need for rule making on the issue.
Modifies operational requirements for a reception center	32B-6-805	Rule 81-4F was updated effective July 1, 2012.
Addresses provisions related to the transfer of retail licenses	32B-8a-302	This provision was delayed to July 1, 2013 by SB 4001 in the 2012 Fourth Special Session.
Authorizes the director to issue or deny issuance of certain permits	32B-9-303	Rule 81-7 (single event permits) and Rule 81-10B (temporary beer permits) were amended to include director's authority to approve. The amendments were made effective July 1, 2012. Single event permits were issued and reported to the temporary Compliance, Licensing, and Enforcement Subcommittee.
Addresses notification of an event to law enforcement	32B-9-202	DABC Policy 06-02 was updated in July, 2012 to state that SBI and local law enforcement is emailed when the event is approved and at least three days before the event
Requires the director to issue monthly reports to the commission of the director's activities relative to permits	32B-9-202	A log of events approved by the Director is included in the commission meeting agenda to be reported and made public. This practice was formalized under DABC policy 06-02, updated in July, 2012.
Allows certain permittees to change the location of where to store, sell, offer for sale, furnish, or allow consumption	32B-9-204	DABC follows the same procedure for approval of a permit by the director by notifying the Compliance, Licensing, and Enforcement Subcommittee.
Removes purposes for which the commission may hold a closed meeting	52-4-205	No action required on part of the DABC.

<b>HB 354</b>		
<b>Provision</b>	<b>Section</b>	<b>Action Taken</b>
Created the Markup Holding Fund and provides for the remittance of a markup to the State Tax Commission	32B-2-301	DABC has worked with the Tax Commission and Division of Finance and is prepared to make the first deposit for July's sales.
Creates a committee to establish a process to collect information related to abuse of alcoholic products	53-1-119	This committee is under the purview of the Department of Public safety. It has been formally created and has met two times in preparation of beginning to collect information next year.
Addresses certain reporting requirements related to the beer tax	59-15-106	This requirement applies to the Tax Commission and removed the requirement for every motor carrier delivering beer to report to the Tax Commission. No action required on part of the DABC.
<b>SB 258</b>		
<b>Provision</b>	<b>Section</b>	<b>Action Taken</b>
Creates a restricted account with the General Fund	32B-2-306	The "Underage Drinking Prevention Media and Education Campaign Restricted Account" has been created.
Requires deposits into the restricted account of a percentage of the total gross revenue from the sale of liquor	32B-2-306	0.6% of gross revenue from FY11 sales has been deposited in the account for use in FY13.
Outlines the duties of the Utah Substance Abuse Advisory Council	32B-2-306	The council has been formally created to provide oversight of the campaign. They have approved the budget for FY13.
Outlines the duties of the department	32B-2-306	DABC has submitted a plan to the advisory council detailing the intended use of the funds, is conducting the plan, and will submit an annual report by October 1 of each year.

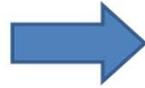
### Questions Regarding Implementation

- 1) 32B-2-605 was changed by SB 66 to state that Package Agency agreements should include procedures for delinquent payments as well as providing for covert investigations for selling alcohol to minors. These policies have been included in DABC Package Agency Policy 14 (Sales Restrictions) and Policy 25 (Payments).
- 2) Package Agency Contracts state the agents will be in compliance with Department Policies. Does this meet the requirements of SB66 or should these items be specifically addressed in the contracts?
- 3) The notification requirements of 32B-9-202(2)(g) and 32B-9-202(3) require the notification of "each commissioner" when issuing a permit. Is this notification limited to members of the Compliance, Licensing, and Enforcement Subcommittee, or do all seven members need to be contacted?

## Markup Holding Fund Example



DABC pays \$10 for a bottle of alcohol.



Product is marked up 86% and sold for \$18.60.



DABC remits \$8.60 to the Tax Commission in the Markup Holding Fund.



School Lunch and Public Safety are paid from Markup Holding Fund monthly.



Profit transfer at year end will be paid from Markup Holding Fund and Liquor Control Fund.