

**ALCOHOLIC BEVERAGE ENFORCEMENT AND
TREATMENT**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Michael G. Waddoups

This act modifies the Alcoholic Beverage Title and the Revenue and Taxation Title to increase the beer tax rate and to create the Alcoholic Beverage Enforcement and Treatment Restricted Account. This act makes technical changes.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

32A-1-115, as last amended by Chapter 287, Laws of Utah 2002

59-15-101, as last amended by Chapters 30 and 66, Laws of Utah 1992

59-15-109, as renumbered and amended by Chapter 2, Laws of Utah 1987

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **32A-1-115** is amended to read:

32A-1-115. Alcoholic Beverage Enforcement and Treatment Restricted Account

-- Distribution to municipalities and counties.

(1) As used in this section:

(a) "Account" means the Alcoholic Beverage Enforcement and Treatment Restricted Account created in this section.

[~~(a)~~] (b) "Alcohol-related offense" means:

(i) a violation of:

(A) Section 41-6-44; or

(B) an ordinance that complies with the requirements of:

(I) Subsection 41-6-43(1); or

(II) Section 76-5-207; or

(ii) an offense involving the:

(A) illegal sale of alcohol;

(B) illegal distribution of alcohol;

- (C) illegal transportation of alcohol;
- (D) illegal possession of alcohol; or
- (E) illegal consumption of alcohol.

~~[(b)]~~ (c) "Annual conviction time period" means the time period that:

- (i) begins on July 1 and ends on June 30; and
- (ii) immediately precedes the fiscal year for which an appropriation under this section is

made.

~~[(e)]~~ (d) "Coordinating council" means the Utah Substance Abuse and Anti-Violence Coordinating Council created in Section 63-25a-201.

~~[(d)]~~ (e) "Municipality" means:

- (i) a city; or
- (ii) a town.

~~[(2)(a)(i)]~~ Beginning with fiscal year 2007-08 and except as provided in Subsection (2)(a)(iii), the Legislature shall annually appropriate from the General Fund to municipalities and counties an amount not less than the greater of:]

~~[(A)]~~ 40% of the proceeds of the beer excise tax deposited in the General Fund;]

~~[(F)]~~ in accordance with Section 59-15-109; and]

~~[(H)]~~ for the fiscal year two years preceding the fiscal year of the appropriation; or]

~~[(B)]~~ \$4,350,000;]

~~[(ii)]~~ For fiscal years 2003-04 through 2006-07 and except as provided in Subsection (2)(a)(iii), the Legislature shall appropriate an amount not to exceed the following amounts from the proceeds of the beer excise tax deposited in the General Fund in accordance with Section 59-15-109 to municipalities and counties:]

~~[(A)]~~ for fiscal year 2003-04, \$3,044,000;]

~~[(B)]~~ for fiscal year 2004-05, \$3,479,000;]

~~[(C)]~~ for fiscal year 2005-06, \$3,914,000; and]

~~[(D)]~~ for fiscal year 2006-07, \$4,350,000;]

~~[(iii)]~~ Notwithstanding Subsection (2)(a)(i) or (ii), if the proceeds of the beer excise tax

~~deposited in the General Fund in accordance with Section 59-15-109 are less than the amount required to be appropriated under this Subsection (2)(a), the Legislature shall appropriate to municipalities and counties an amount equal to the beer excise tax deposited in the General Fund during the fiscal year two years preceding the fiscal year of the appropriation.]~~

~~[(iv) (A) The State Tax Commission shall notify the entities described in Subsection (2)(a)(iv)(B) not later than the September 1 preceding the fiscal year of the appropriation of:]~~

~~[(I) the amount of the proceeds of the beer excise tax deposited in the General Fund in accordance with Section 59-15-109 for the fiscal year two years preceding the fiscal year of the appropriation; and]~~

~~[(H) an amount equal to 40% of the amount listed in Subsection (2)(a)(iv)(A)(I).]~~

~~[(B) The notification required by Subsection (2)(a)(iv)(A) shall be sent to:]~~

~~[(I) the Governor's Office of Planning and Budget; and]~~

~~[(H) Legislative Fiscal Analyst.]~~

~~[(b) (i) The appropriations under Subsection (2)(a)]~~

(2) (a) There is created in the General Fund a restricted account called the "Alcoholic Beverage Enforcement and Treatment Restricted Account."

(b) The account shall be funded from:

(i) amounts deposited by the state treasurer in accordance with Section 59-15-109;

(ii) any appropriations made to the account by the Legislature; and

(iii) interest described in Subsection (2)(c).

(c) Interest earned on the account shall be deposited into the account.

(d) (i) The revenues in the account shall be used exclusively for programs or projects related to prevention, treatment, detection, prosecution, and control of violations of this title and other offenses in which alcohol is a contributing factor except as provided in Subsection (2)(b)(d)(ii).

(ii) The portion distributed under this section to counties may also be used for the confinement or treatment of persons arrested for or convicted of offenses in which alcohol is a contributing factor.

(iii) Any municipality or county entitled to receive funds shall use the funds exclusively as required by this Subsection (2)~~[(b)]~~(d).

~~[(c)]~~ (iv) The appropriations provided for under Subsection ~~[(2)(a)]~~ (3) are:

(A) intended to supplement the budget of the appropriate agencies of each municipality and county within the state to enable the municipalities and counties to more effectively fund the programs and projects described [under Subsection (2)(b). The appropriations are] in this Subsection (2)(d); and

(B) not intended to replace funds that would otherwise be allocated for [those] the programs and projects in this Subsection (2)(d).

~~[(3) (a) The appropriations provided for in Subsection (2)(a) shall be distributed to municipalities and counties on the following basis:]~~

(3) (a) The revenues deposited into the account shall be distributed to municipalities and counties:

(i) to the extent appropriated by the Legislature except that the Legislature shall appropriate each fiscal year an amount equal to at least the amount deposited in the account in accordance with Section 59-15-109; and

(ii) as provided in this Subsection (3).

(b) The amount appropriated from the account shall be distributed as follows:

(i) 25% to municipalities and counties based upon the percentage of the state population residing in each municipality and county;

(ii) 30% to municipalities and counties based upon each municipality's and county's percentage of the statewide convictions for all alcohol-related offenses;

(iii) 20% to municipalities and counties based upon the percentage of all state stores, package agencies, liquor licensees, and beer licensees in the state that are located in each municipality and county; and

(iv) 25% to the counties for confinement and treatment purposes authorized by this section based upon the percentage of the state population located in each county.

~~[(b)]~~ (c) (i) Except as provided in Subsection (3)~~[(b)]~~(c)(iii), a municipality that does not

have a law enforcement agency may not receive monies under this section.

(ii) The State Tax Commission:

(A) may not distribute the monies the municipality would receive but for the municipality not having a law enforcement agency to that municipality; and

(B) shall distribute the monies that the municipality would have received but for it not having a law enforcement agency to the county in which the municipality is located for use by the county in accordance with this section.

(iii) Notwithstanding Subsections (3)~~(b)~~(c)(i) and (ii), if the coordinating council finds that a municipality described in Subsection (3)~~(b)~~(c)(i) demonstrates that the municipality can use the monies that the municipality is otherwise eligible to receive in accordance with this section, the coordinating council may direct the State Tax Commission to distribute the money to the municipality.

(4) To determine the distributions required by Subsection (3)~~(a)~~(b)(ii), the State Tax Commission shall annually:

(a) for an annual conviction time period:

(i) multiply by two the total number of convictions in the state obtained during the annual conviction time period for violation of:

(A) Section 41-6-44; or

(B) an ordinance that complies with the requirements of Subsection 41-6-43(1) or Section 76-5-207; and

(ii) add to the number calculated under Subsection (4)(a)(i) the number of convictions obtained during the annual conviction time period for all alcohol-related offenses other than the alcohol-related offenses described in Subsection (4)(a)(i);

(b) divide an amount equal to 30% of the appropriation for that fiscal year by the sum obtained in Subsection (4)(a); and

(c) multiply the amount calculated under Subsection (4)(b), by the number of convictions obtained in each municipality and county during the annual conviction time period for alcohol-related offenses.

(5) For purposes of this section:

(a) the number of state stores, package agencies, and licensees located within the limits of each municipality and county:

(i) is the number determined by the department to be so located;

(ii) includes all:

(A) private clubs;

(B) restaurants;

(C) airport lounges;

(D) package agencies; and

(E) state stores; and

(iii) does not include on-premise beer retailer licensees;

(b) the number of state stores, package agencies, and licensees in a county consists only of that number located within unincorporated areas of the county;

(c) population figures shall be determined according to the most current population estimates prepared by the Utah Population Estimates Committee;

(d) a county's population figure for the 25% distribution to municipalities and counties under Subsection (3)~~(a)~~(b)(i) shall be determined only with reference to the population in the unincorporated areas of the county;

(e) a county's population figure under Subsection (3)~~(a)~~(b)(iv) for the 25% distribution to counties only shall be determined with reference to the total population in the county, including that of municipalities;

(f) a conviction occurs in the municipality or county that actually prosecutes the offense to judgment; and

(g) in the case of a conviction based upon a guilty plea, the conviction is considered to occur in the municipality or county that, except for the guilty plea, would have prosecuted the offense.

(6) By not later than September 1 each year:

(a) the state court administrator shall certify to the State Tax Commission the number of

convictions obtained for alcohol-related offenses in each municipality or county in the state during the annual conviction time period; and

(b) the coordinating council shall notify the State Tax Commission of any municipality that does not have a law enforcement agency.

(7) By not later than December 1 of each year, the coordinating council shall notify the State Tax Commission for the fiscal year of appropriation of:

(a) any municipality that may receive a distribution under Subsection (3)~~(b)~~(c)(iii);

(b) any county that may receive a distribution allocated to a municipality described in Subsection (3)~~(b)~~(c)(ii);

(c) any municipality or county that may not receive a distribution because the coordinating council has suspended the payment under Subsection (10)(a)(i); and

(d) any municipality or county that receives a distribution because the suspension of payment has been cancelled under Subsection (10)(a)(ii).

(8) (a) By not later than January 1 of the fiscal year of appropriation, the State Tax Commission shall annually distribute to each municipality and county the portion of the appropriation that the municipality or county is eligible to receive under this section, except for any municipality or county that the coordinating council notifies the State Tax Commission in accordance with Subsection (7) may not receive a distribution in that fiscal year.

(b) (i) The State Tax Commission shall prepare forms for use by municipalities and counties in applying for distributions under this section.

(ii) The forms described in this Subsection (8) may require the submission of information the State Tax Commission considers necessary to enable the State Tax Commission to comply with this section.

(9) A municipality or county that receives any monies under this section during a fiscal year shall by no later than October 1 following the fiscal year:

(a) report to the coordinating council:

(i) the programs or projects of the municipality or county that receive monies under this section;

(ii) if the monies for programs or projects were exclusively used as required by Subsection (2)~~(b)~~(d);

(iii) indicators of whether the programs or projects that receive monies under this section are effective; and

(iv) if any monies received under this section were not expended by the municipality or county; and

(b) provide the coordinating council a statement signed by the chief executive officer of the county or municipality attesting that the monies received under this section were used in addition to any monies appropriated or otherwise available for the county's or municipality's law enforcement and were not used to supplant those monies.

(10) (a) The coordinating council may, by a majority vote:

(i) suspend future payments under Subsection (8) to a municipality or county that:

(A) does not file a report that meets the requirements of Subsection (9); or

(B) the coordinating council finds does not use the monies as required by Subsection (2)~~(b)~~ (d) on the basis of the report filed by the municipality or county under Subsection (9);
and

(ii) cancel a suspension under Subsection (10)(a)(i).

(b) The State Tax Commission shall:

(i) retain monies that a municipality or county does not receive under Subsection (10)(a);
and

(ii) notify the coordinating council of the balance of retained monies under this Subsection (10)(b) after the annual distribution under Subsection (8).

(11) (a) Subject to the requirements of this Subsection (11), the coordinating council shall award the balance of retained monies under Subsection (10)(b):

(i) as prioritized by majority vote of the coordinating council; and

(ii) as grants to:

(A) a county;

(B) a municipality; or

(C) the Department of Public Safety.

(b) By not later than May 30 of the fiscal year of the appropriation, the coordinating council shall notify the State Tax Commission of any grants awarded under this Subsection (11).

(c) The State Tax Commission shall make payments of grants:

(i) upon receiving notice as provided under Subsection (11)(b); and

(ii) by not later than June 30 of the fiscal year of the appropriation.

(d) An entity that receives a grant under this Subsection (11) shall use the grant monies exclusively for programs or projects described in Subsection (2)~~(b)~~(d).

Section 2. Section **59-15-101** is amended to read:

59-15-101. Tax basis -- Rate.

(1) (a) A tax is imposed at the rate ~~[of \$11 per 31-gallon barrel]~~ specified in Subsection (1)(b) on all beer, as defined in Section 32A-1-105, ~~[which]~~ that is imported or manufactured for sale, use, or distribution in this state. ~~[This tax is]~~

(b) The tax described in Subsection (1)(a) shall be imposed at a rate of:

(i) \$11 per 31-gallon barrel for beer imported or manufactured:

(A) before July 1, 2003; and

(B) for sale, use, or distribution in this state; and

(ii) \$12.80 per 31-gallon barrel for beer imported or manufactured:

(A) on or after July 1, 2003; and

(B) for sale, use, or distribution in this state.

(c) The tax imposed under this Subsection (1):

(i) shall be imposed at a proportionate rate for:

(A) any ~~[other]~~ quantity of beer other than a 31-gallon barrel; or ~~[for]~~

(B) the fractional parts of a 31-gallon barrel; and

(ii) may not be imposed more than once on the same beer.

(2) A tax may not be ~~[levied or]~~ imposed on beer:

(a) sold to the United States and its agencies~~[-, nor shall any tax be imposed on beer]; or~~

(b) (i) manufactured or imported for sale, use, or distribution outside the state; and

(ii) exported from the state.

Section 3. Section **59-15-109** is amended to read:

59-15-109. Tax moneys to be paid to state treasurer.

~~[All money received from the taxes imposed by]~~

Taxes collected under this chapter shall be paid by the commission to the state treasurer daily for deposit [into the General Fund:] as follows:

(1) for fiscal year 2003-04:

(a) \$2,525,666 shall be deposited into the Alcoholic Beverage Enforcement and Treatment Restricted Account created in Section 32A-1-115; and

(b) the revenue collected in excess of \$2,525,666 shall be deposited into the General Fund;

(2) for fiscal year 2004-05:

(a) \$3,133,777 shall be deposited into the Alcoholic Beverage Enforcement and Treatment Restricted Account created in Section 32A-1-115; and

(b) the revenue collected in excess of \$3,133,777 shall be deposited into the General Fund;

(3) for fiscal year 2005-06:

(a) \$3,741,888 shall be deposited into the Alcoholic Beverage Enforcement and Treatment Restricted Account created in Section 32A-1-115; and

(b) the revenue collected in excess of \$3,741,888 shall be deposited into the General Fund;

(4) for fiscal year 2006-07:

(a) \$4,350,000 shall be deposited into the Alcoholic Beverage Enforcement and Treatment Restricted Account created in Section 32A-1-115; and

(b) the revenue collected in excess of \$4,350,000 shall be deposited into the General Fund; and

(5) beginning with fiscal year 2007-08:

(a) the greater of the following shall be deposited into the Alcoholic Beverage

Enforcement and Treatment Restricted Account created in Section 32A-1-115:

(i) 40% of the revenue collected; or

(ii) \$4,350,000; and

(b) the revenue collected in excess of the amount deposited in accordance with

Subsection (5)(a) shall be deposited into the General Fund.