

Representative Ron Bigelow proposes the following substitute bill:

**ALCOHOLIC BEVERAGE AMENDMENTS -
ELIMINATING ALCOHOL SALES TO YOUTH**

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Peter C. Knudson

House Sponsor: Peggy Wallace

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act and related statutes to address state policy in funding the Alcoholic Beverage Enforcement and Treatment Restricted Account and issues relating to preventing the sale of alcohol to minors.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ clarifies the statewide public purpose of appropriations from the Alcoholic Beverage Enforcement and Treatment Restricted Account and formulas from that account;
- ▶ modifies provisions related to alcohol training and education seminars including:
 - training for persons who sell or directly supervise the sale of beer for an off-premise beer retailer that sells beer for off-premise consumption; and
 - penalties for certain individuals failing to complete an alcohol training and education seminar;
- ▶ imposes requirements on off-premise beer retailers;
- ▶ requires the creation of a tracking system for violations related to the sale of



- 26 alcoholic beverages to a minor;
- 27 ▶ addresses penalties related to the sale of alcoholic beverages to a minor;
- 28 ▶ modifies the duties of certain state agencies;
- 29 ▶ modifies provisions related to the investigation of the sales of alcohol or tobacco to
- 30 underaged individuals; and
- 31 ▶ makes technical changes.

32 **Monies Appropriated in this Bill:**

- 33 This bill appropriates:
- 34 ▶ as an ongoing appropriation subject to future budget constraints, \$543,750 from the
- 35 General Fund for fiscal year 2006-07, to the Department of Public Safety to be used
- 36 by the Highway Safety Office as provided in Section 32A-10-103; and
- 37 ▶ \$1,631,250 from the General Fund for fiscal year 2006-07 only, to the Department
- 38 of Alcoholic Beverage Control to be used as provided in this bill for media and
- 39 education campaigns.

40 **Other Special Clauses:**

41 This bill takes effect on July 1, 2006.

42 **Utah Code Sections Affected:**

43 AMENDS:

- 44 **32A-1-105**, as last amended by Chapter 152, Laws of Utah 2005
- 45 **32A-1-115**, as last amended by Chapter 2, Laws of Utah 2005
- 46 **32A-1-401**, as last amended by Chapter 314, Laws of Utah 2003
- 47 **32A-10-101**, as last amended by Chapter 314, Laws of Utah 2003
- 48 **62A-15-401**, as renumbered and amended by Chapter 8, Laws of Utah 2002, Fifth
- 49 Special Session
- 50 **77-39-101**, as last amended by Chapters 282 and 319, Laws of Utah 1998

51 ENACTS:

- 52 **32A-10-103**, Utah Code Annotated 1953

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

55 Section 1. Section **32A-1-105** is amended to read:

56 **32A-1-105. Definitions.**

57 As used in this title:

58 (1) "Airport lounge" means a place of business licensed to sell alcoholic beverages, at
59 retail, for consumption on its premises located at an international airport with a United States
60 Customs office on the premises of the international airport.

61 (2) "Alcoholic beverages" means "beer" and "liquor" as the terms are defined in this
62 section.

63 (3) (a) "Alcoholic products" means all products that:

64 (i) contain:

65 (A) at least 63/100 of 1% of alcohol by volume; or

66 (B) at least 1/2 of 1% by weight; and

67 (ii) are obtained by fermentation, infusion, decoction, brewing, distillation, or any other
68 process that uses any liquid or combinations of liquids, whether drinkable or not, to create
69 alcohol in an amount greater than the amount prescribed in Subsection (3)(a)(i).

70 (b) "Alcoholic products" does not include any of the following common items that
71 otherwise come within the definition of alcoholic products:

72 (i) extracts;

73 (ii) vinegars;

74 (iii) ciders;

75 (iv) essences;

76 (v) tinctures;

77 (vi) food preparations; or

78 (vii) over-the-counter drugs and medicines.

79 (4) "Bar" means a counter or similar structure:

80 (a) at which alcoholic beverages are:

81 (i) stored; or

82 (ii) dispensed; or

83 (b) from which alcoholic beverages are served.

84 (5) (a) "Beer" means any product that [~~contains~~]:

85 (i) contains 63/100 of 1% of alcohol by volume or 1/2 of 1% of alcohol by weight, but
86 not more than 4% of alcohol by volume or 3.2% by weight; and

87 (ii) is obtained by fermentation, infusion, or decoction of any malted grain.

- 88 (b) Beer may or may not contain hops or other vegetable products.
- 89 (c) Beer includes a product that:
- 90 (i) contains alcohol in the percentages described in Subsection (5)(a); and
- 91 (ii) is referred to as:
- 92 (A) malt liquor;
- 93 (B) malted beverages; or
- 94 (C) malt coolers.
- 95 (6) (a) "Beer retailer" means any business establishment that is:
- 96 (i) engaged, primarily or incidentally, in the retail sale of beer to public patrons,
- 97 whether for consumption on or off the establishment's premises; and
- 98 (ii) licensed to sell beer by:
- 99 (A) the commission;
- 100 (B) a local authority; or
- 101 (C) both the commission and a local authority.
- 102 (b) "Off-premise beer retailer" means a general food store or similar business that is
- 103 engaged in the retail sale of beer to public patrons for consumption off the beer retailer's
- 104 premises.
- 105 [~~(b)~~] (c) (i) "On-premise beer retailer" means any beer retailer engaged, primarily or
- 106 incidentally, in the sale of beer to public patrons for consumption on the beer retailer's
- 107 premises.
- 108 (ii) "On-premise beer retailer" includes a tavern.
- 109 (7) "Billboard" means any public display used to advertise including:
- 110 (a) a light device;
- 111 (b) a painting;
- 112 (c) a drawing;
- 113 (d) a poster;
- 114 (e) a sign;
- 115 (f) a signboard; or
- 116 (g) a scoreboard.
- 117 (8) "Brewer" means any person engaged in manufacturing beer.
- 118 (9) "Cash bar" means the service of alcoholic beverages:

- 119 (a) at:
120 (i) a banquet; or
121 (ii) a temporary event for which a permit is issued under this title; and
122 (b) if an attendee at the banquet or temporary event is charged for the alcoholic
123 beverage.
- 124 (10) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
125 a bus company to a group of persons pursuant to a common purpose:
126 (a) under a single contract;
127 (b) at a fixed charge in accordance with the bus company's tariff; and
128 (c) for the purpose of giving the group of persons the exclusive use of the bus and a
129 driver to travel together to a specified destination or destinations.
- 130 (11) "Church" means a building:
131 (a) set apart for the purpose of worship;
132 (b) in which religious services are held;
133 (c) with which clergy is associated; and
134 (d) which is tax exempt under the laws of this state.
- 135 (12) "Club" and "private club" means any of the following organized primarily for the
136 benefit of its members:
137 (a) a social club;
138 (b) a recreational association;
139 (c) a fraternal association;
140 (d) an athletic association; or
141 (e) a kindred association.
- 142 (13) "Commission" means the Alcoholic Beverage Control Commission.
143 (14) "Department" means the Department of Alcoholic Beverage Control.
144 (15) "Distressed merchandise" means any alcoholic beverage in the possession of the
145 department that is saleable, but for some reason is unappealing to the public.
146 (16) "General food store" means any business establishment primarily engaged in
147 selling food and grocery supplies to public patrons for off-premise consumption.
148 (17) "Guest" means a person accompanied by an active member or visitor of a club
149 who enjoys only those privileges derived from the host for the duration of the visit to the club.

- 150 (18) (a) "Heavy beer" means any product that:
- 151 (i) contains more than 4% alcohol by volume; and
- 152 (ii) is obtained by fermentation, infusion, or decoction of any malted grain.
- 153 (b) "Heavy beer" is considered "liquor" for the purposes of this title.
- 154 (19) "Hosted bar" means the service of alcoholic beverages:
- 155 (a) without charge; and
- 156 (b) at a:
- 157 (i) banquet; or
- 158 (ii) privately hosted event.
- 159 (20) "Identification card" means the identification card issued under Title 53, Chapter
- 160 3, Part 8, Identification Card Act.
- 161 (21) "Interdicted person" means a person to whom the sale, gift, or provision of an
- 162 alcoholic beverage is prohibited by:
- 163 (a) law; or
- 164 (b) court order.
- 165 (22) "Intoxicated" means that to a degree that is unlawful under Section 76-9-701 a
- 166 person is under the influence of:
- 167 (a) an alcoholic beverage;
- 168 (b) a controlled substance;
- 169 (c) a substance having the property of releasing toxic vapors; or
- 170 (d) a combination of Subsections (22)(a) through (c).
- 171 (23) "Licensee" means any person issued a license by the commission to sell,
- 172 manufacture, store, or allow consumption of alcoholic beverages on premises owned or
- 173 controlled by the person.
- 174 (24) "Limousine" means any motor vehicle licensed by the state or a local authority,
- 175 other than a bus or taxicab:
- 176 (a) in which the driver and passengers are separated by a partition, glass, or other
- 177 barrier; and
- 178 (b) that is provided by a company to an individual or individuals at a fixed charge in
- 179 accordance with the company's tariff for the purpose of giving the individual or individuals the
- 180 exclusive use of the limousine and a driver to travel to a specified destination or destinations.

181 (25) (a) "Liquor" means alcohol, or any alcoholic, spirituous, vinous, fermented, malt,
182 or other liquid, or combination of liquids, a part of which is spirituous, vinous, or fermented,
183 and all other drinks, or drinkable liquids that contain more than 1/2 of 1% of alcohol by volume
184 and is suitable to use for beverage purposes.

185 (b) "Liquor" does not include any beverage defined as a beer, malt liquor, or malted
186 beverage that has an alcohol content of less than 4% alcohol by volume.

187 (26) "Local authority" means:

188 (a) the governing body of the county if the premises are located in an unincorporated
189 area of a county; or

190 (b) the governing body of the city or town if the premises are located in an incorporated
191 city or a town.

192 (27) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or
193 otherwise make an alcoholic product for personal use or for sale or distribution to others.

194 (28) "Member" means a person who, after paying regular dues, has full privileges of a
195 club under this title.

196 (29) (a) "Military installation" means a base, air field, camp, post, station, yard, center,
197 or homeport facility for any ship:

198 (i) (A) under the control of the United States Department of Defense; or

199 (B) of the National Guard;

200 (ii) that is located within the state; and

201 (iii) including any leased facility.

202 (b) "Military installation" does not include any facility used primarily for:

203 (i) civil works;

204 (ii) rivers and harbors projects; or

205 (iii) flood control projects.

206 (30) "Minor" means any person under the age of 21 years.

207 (31) "Outlet" means a location other than a state store or package agency where
208 alcoholic beverages are sold pursuant to a license issued by the commission.

209 (32) "Package" means any of the following containing liquor:

210 (a) a container;

211 (b) a bottle;

212 (c) a vessel; or

213 (d) other receptacle.

214 (33) "Package agency" means a retail liquor location operated under a contractual
215 agreement with the department, by a person other than the state, who is authorized by the
216 commission to sell package liquor for consumption off the premises of the agency.

217 (34) "Package agent" means any person permitted by the commission to operate a
218 package agency pursuant to a contractual agreement with the department to sell liquor from
219 premises that the package agent shall provide and maintain.

220 (35) "Permittee" means any person issued a permit by the commission to perform acts
221 or exercise privileges as specifically granted in the permit.

222 (36) "Person" means any individual, partnership, firm, corporation, limited liability
223 company, association, business trust, or other form of business enterprise, including a receiver
224 or trustee, and the plural as well as the singular number, unless the intent to give a more limited
225 meaning is disclosed by the context.

226 (37) "Premises" means any building, enclosure, room, or equipment used in connection
227 with the sale, storage, service, manufacture, distribution, or consumption of alcoholic products,
228 unless otherwise defined in this title or in the rules adopted by the commission.

229 (38) "Prescription" means a writing in legal form, signed by a physician or dentist and
230 given to a patient for obtaining an alcoholic beverage for medicinal purposes only.

231 (39) (a) "Privately hosted event" or "private social function" means a specific social,
232 business, or recreational event for which an entire room, area, or hall has been leased or rented,
233 in advance by an identified group, and the event or function is limited in attendance to people
234 who have been specifically designated and their guests.

235 (b) "Privately hosted event" and "private social function" does not include events or
236 functions to which the general public is invited, whether for an admission fee or not.

237 (40) "Proof of age" means:

238 (a) an identification card;

239 (b) an identification that:

240 (i) is substantially similar to an identification card;

241 (ii) is issued in accordance with the laws of a state other than Utah in which the
242 identification is issued;

- 243 (iii) includes date of birth; and
- 244 (iv) has a picture affixed;
- 245 (c) a valid driver license certificate that:
- 246 (i) includes date of birth;
- 247 (ii) has a picture affixed; and
- 248 (iii) is issued:
- 249 (A) under Title 53, Chapter 3, Uniform Driver License Act; or
- 250 (B) in accordance with the laws of the state in which it is issued;
- 251 (d) a military identification card that:
- 252 (i) includes date of birth; and
- 253 (ii) has a picture affixed; or
- 254 (e) a valid passport.
- 255 (41) (a) "Public building" means any building or permanent structure owned or leased
- 256 by the state, a county, or local government entity that is used for:
- 257 (i) public education;
- 258 (ii) transacting public business; or
- 259 (iii) regularly conducting government activities.
- 260 (b) "Public building" does not mean or refer to any building owned by the state or a
- 261 county or local government entity when the building is used by anyone, in whole or in part, for
- 262 proprietary functions.
- 263 (42) "Representative" means an individual who is compensated by salary, commission,
- 264 or any other means for representing and selling the alcoholic beverage products of a
- 265 manufacturer, supplier, or importer of liquor, wine, or heavy beer.
- 266 (43) "Residence" means the person's principal place of abode within Utah.
- 267 (44) "Restaurant" means any business establishment:
- 268 (a) where a variety of foods is prepared and complete meals are served to the general
- 269 public;
- 270 (b) located on a premises having adequate culinary fixtures for food preparation and
- 271 dining accommodations; and
- 272 (c) that is engaged primarily in serving meals to the general public.
- 273 (45) "Retailer" means any person engaged in the sale or distribution of alcoholic

274 beverages to the consumer.

275 (46) (a) "Sample" includes:

276 (i) a department sample; and

277 (ii) an industry representative sample.

278 (b) "Department sample" means liquor, wine, and heavy beer that has been placed in
279 the possession of the department for testing, analysis, and sampling.

280 (c) "Industry representative sample" means liquor, wine, and heavy beer that has been
281 placed in the possession of the department for testing, analysis, and sampling by local industry
282 representatives on the premises of the department to educate the local industry representatives
283 of the quality and characteristics of the product.

284 (47) (a) "School" means any building used primarily for the general education of
285 minors.

286 (b) "School" does not include:

287 (i) a nursery school;

288 (ii) an infant day care center; or

289 (iii) a trade or technical school.

290 (48) "Sell," "sale," and "to sell" means any transaction, exchange, or barter whereby,
291 for any consideration, an alcoholic beverage is either directly or indirectly transferred, solicited,
292 ordered, delivered for value, or by any means or under any pretext is promised or obtained,
293 whether done by a person as a principal, proprietor, or as an agent, servant, or employee, unless
294 otherwise defined in this title or the rules made by the commission.

295 (49) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer
296 and heavy beer per year.

297 (50) (a) "Spirituous liquor" means liquor that is distilled.

298 (b) "Spirituous liquor" includes an alcohol product defined as a "distilled spirit" by 27
299 U.S.C. 211 and 27 C.F.R. Sections 5.11 through 5.23.

300 (51) (a) "State label" means the official label designated by the commission affixed to
301 all liquor containers sold in the state.

302 (b) "State label" includes the department identification mark and inventory control
303 number.

304 (52) (a) "State store" means a facility for the sale of package liquor:

- 305 (i) located on premises owned or leased by the state; and
- 306 (ii) operated by state employees.
- 307 (b) "State store" does not apply to any:
- 308 (i) licensee;
- 309 (ii) permittee; or
- 310 (iii) package agency.
- 311 (53) "Supplier" means any person selling alcoholic beverages to the department.
- 312 (54) (a) "Tavern" means any business establishment that is:
- 313 (i) engaged primarily in the retail sale of beer to public patrons for consumption on the
- 314 establishment's premises; and
- 315 (ii) licensed to sell beer under Chapter 10, Part 2, On-Premise Beer Retailer Licenses.
- 316 (b) "Tavern" includes the following if the revenue from the sale of beer exceeds the
- 317 revenue of the sale of food, although food need not be sold in the establishment:
- 318 (i) a beer bar;
- 319 (ii) a parlor;
- 320 (iii) a lounge;
- 321 (iv) a cabaret; or
- 322 (v) a nightclub.
- 323 (55) "Temporary domicile" means the principal place of abode within Utah of a person
- 324 who does not have a present intention to continue residency within Utah permanently or
- 325 indefinitely.
- 326 (56) "Unsaleable liquor merchandise" means merchandise that:
- 327 (a) is unsaleable because the merchandise is:
- 328 (i) unlabeled;
- 329 (ii) leaky;
- 330 (iii) damaged;
- 331 (iv) difficult to open; or
- 332 (v) partly filled;
- 333 (b) is in a container:
- 334 (i) having faded labels or defective caps or corks;
- 335 (ii) in which the contents are:

- 336 (A) cloudy;
- 337 (B) spoiled; or
- 338 (C) chemically determined to be impure; or
- 339 (iii) that contains:
- 340 (A) sediment; or
- 341 (B) any foreign substance; or
- 342 (c) is otherwise considered by the department as unfit for sale.

343 (57) "Visitor" means an individual that in accordance with Section 32A-5-107 holds
344 limited privileges in a private club by virtue of a visitor card.

345 (58) "Warehouser" means any person, other than a licensed manufacturer, engaged in
346 the importation for sale, storage, or distribution of liquor regardless of amount.

347 (59) "Wholesaler" means any person engaged in the importation for sale, or in the sale
348 of beer in wholesale or jobbing quantities to retailers, other than a small brewer selling beer
349 manufactured by that brewer.

350 (60) (a) "Wine" means any alcoholic beverage obtained by the fermentation of the
351 natural sugar content of fruits, plants, honey, or milk, or any other like substance, whether or
352 not other ingredients are added.

353 (b) "Wine" is considered "liquor" for purposes of this title, except as otherwise
354 provided in this title.

355 Section 2. Section **32A-1-115** is amended to read:

356 **32A-1-115. Alcoholic Beverage Enforcement and Treatment Restricted Account**
357 **-- Distribution to municipalities and counties.**

358 (1) As used in this section:

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

361 (b) "Alcohol-related offense" means:

362 (i) a violation of:

363 (A) Section 41-6a-502; or

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

365 (I) Subsection 41-6a-510(1); or

366 (II) Section 76-5-207; or

- 367 (ii) an offense involving the:
- 368 (A) illegal sale of alcohol;
- 369 (B) illegal distribution of alcohol;
- 370 (C) illegal transportation of alcohol;
- 371 (D) illegal possession of alcohol; or
- 372 (E) illegal consumption of alcohol.
- 373 (c) "Annual conviction time period" means the time period that:
- 374 (i) begins on July 1 and ends on June 30; and
- 375 (ii) immediately precedes the fiscal year for which an appropriation under this section
- 376 is made.
- 377 (d) "Coordinating council" means the Utah Substance Abuse and Anti-Violence
- 378 Coordinating Council created in Section 63-25a-201.
- 379 (e) "Municipality" means:
- 380 (i) a city; or
- 381 (ii) a town.
- 382 (2) (a) There is created in the General Fund a restricted account called the "Alcoholic
- 383 Beverage Enforcement and Treatment Restricted Account."
- 384 (b) The account shall be funded from:
- 385 (i) amounts deposited by the state treasurer in accordance with Section 59-15-109;
- 386 (ii) any appropriations made to the account by the Legislature; and
- 387 (iii) interest described in Subsection (2)(c).
- 388 (c) Interest earned on the account shall be deposited into the account.
- 389 (d) (i) [~~The~~] Consistent with the policies provided in Subsection 32A-1-104(4)(b), the
- 390 revenues in the account shall be used for statewide public purposes including promoting the
- 391 reduction of the harmful effects of over consumption of alcoholic beverages by adults and
- 392 alcohol consumption by minors by funding exclusively [for] programs or projects related to
- 393 prevention, treatment, detection, prosecution, and control of violations of this title and other
- 394 offenses in which alcohol is a contributing factor except as provided in Subsection (2)(d)(ii).
- 395 (ii) The portion distributed under this section to counties may also be used for the
- 396 confinement or treatment of persons arrested for or convicted of offenses in which alcohol is a
- 397 contributing factor.

398 (iii) Any municipality or county entitled to receive funds shall use the funds
399 exclusively as required by this Subsection (2)(d).

400 (iv) The appropriations provided for under Subsection (3) are:

401 (A) intended to supplement the budget of the appropriate agencies of each municipality
402 and county within the state to enable the municipalities and counties to more effectively fund
403 the programs and projects described in this Subsection (2)(d); and

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

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

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

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

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

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

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

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

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

422 (c) (i) Except as provided in Subsection (3)(c)(iii), a municipality that does not have a
423 law enforcement agency may not receive monies under this section .

424 (ii) The State Tax Commission:

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

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

429 the county in accordance with this section.

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

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

437 (a) for an annual conviction time period:

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

440 (A) Section 41-6a-502; or

441 (B) an ordinance that complies with the requirements of Subsection 41-6a-510(1) or
442 Section 76-5-207; and

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

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

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

451 (5) For purposes of this section:

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

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

455 (ii) includes all:

456 (A) private clubs;

457 (B) restaurants;

458 (C) limited restaurants;

459 (D) on-premise banquet licenses;

460 [~~C~~] (E) airport lounges;
461 [~~D~~] (F) package agencies; and
462 [~~E~~] (G) state stores; and
463 (iii) does not include on-premise beer retailer licensees;
464 (b) the number of state stores, package agencies, and licensees in a county consists only
465 of that number located within unincorporated areas of the county;
466 (c) population figures shall be determined according to the most current population
467 estimates prepared by the Utah Population Estimates Committee;
468 (d) a county's population figure for the 25% distribution to municipalities and counties
469 under Subsection (3)(b)(i) shall be determined only with reference to the population in the
470 unincorporated areas of the county;
471 (e) a county's population figure under Subsection (3)(b)(iv) for the 25% distribution to
472 counties only shall be determined with reference to the total population in the county, including
473 that of municipalities;
474 (f) a conviction occurs in the municipality or county that actually prosecutes the
475 offense to judgment; and
476 (g) in the case of a conviction based upon a guilty plea, the conviction is considered to
477 occur in the municipality or county that, except for the guilty plea, would have prosecuted the
478 offense.
479 (6) By not later than September 1 each year:
480 (a) the state court administrator shall certify to the State Tax Commission the number
481 of convictions obtained for alcohol-related offenses in each municipality or county in the state
482 during the annual conviction time period; and
483 (b) the coordinating council shall notify the State Tax Commission of any municipality
484 that does not have a law enforcement agency.
485 (7) By not later than December 1 of each year, the coordinating council shall notify the
486 State Tax Commission for the fiscal year of appropriation of:
487 (a) any municipality that may receive a distribution under Subsection (3)(c)(iii);
488 (b) any county that may receive a distribution allocated to a municipality described in
489 Subsection (3)(c)(ii);
490 (c) any municipality or county that may not receive a distribution because the

491 coordinating council has suspended the payment under Subsection (10)(a)(i); and

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

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

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

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

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

506 (a) report to the coordinating council:

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

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

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

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

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

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

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

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

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

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

525 (b) The State Tax Commission shall:

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

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

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

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

533 (ii) as grants to:

534 (A) a county;

535 (B) a municipality; or

536 (C) the Department of Public Safety.

537 (b) By not later than May 30 of the fiscal year of the appropriation, the coordinating
538 council shall notify the State Tax Commission of any grants awarded under this Subsection
539 (11).

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

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

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

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

545 Section 3. Section **32A-1-401** is amended to read:

546 **32A-1-401. Alcohol training and education -- Revocation or suspension of**
547 **licenses.**

548 (1) The commission may suspend, revoke, or not renew the license of any licensee
549 licensed by the commission if any of the following [~~persons~~] individuals, as defined in Section
550 62A-15-401, fail to complete [~~the~~] an alcohol training and education seminar required in
551 Section 62A-15-401:

552 (a) [~~a person~~] an individual who manages operations at the premises of the licensee

553 engaged in the retail sale of alcoholic beverages for consumption on the premises of the
554 licensee;

555 (b) [~~a person~~] an individual who supervises the serving of alcoholic beverages to a
556 customer for consumption on the premises of the licensee; or

557 (c) [~~a person~~] an individual who serves alcoholic beverages to a customer for
558 consumption on the premises of the licensee.

559 (2) A city, town, or county in which an establishment conducts its business may
560 suspend, revoke, or not renew the business license of the establishment if any [~~person~~]
561 individual described in Subsection (1) fails to complete [~~the~~] an alcohol training and education
562 seminar required in Section 62A-15-401.

563 (3) A local authority that issues an off-premise beer retailer license to a general food
564 store or similar business that is engaged in the retail sale of beer for consumption off the beer
565 retailer's premises may immediately suspend the license if any of the following individuals fail
566 to complete an alcohol training and education seminar required in Sections 32A-10-103 and
567 62A-15-401, an individual who:

568 (a) directly supervises the sale of beer to a customer for consumption off the premises
569 of the off-premise beer retailer licensee; or

570 (b) sells beer to a customer for consumption off the premises of the off-premise beer
571 retailer licensee.

572 Section 4. Section **32A-10-101** is amended to read:

573 **32A-10-101. State and local licensing -- Limitations.**

574 (1) Any local authority may:

575 (a) tax or prohibit any retail sale of beer;

576 (b) issue, suspend, and revoke licenses to sell beer at retail for on-premise
577 consumption;

578 (c) issue, suspend, and revoke temporary permits or licenses to sell beer for on-premise
579 consumption at temporary special events that do not last longer than 30 days;

580 (d) issue, suspend, and revoke licenses to general food stores and other establishments
581 to sell beer at retail for off-premise consumption;

582 (e) establish proximity restrictions for establishing premises where beer is sold at retail
583 for off-premise consumption in relation to any public or private school, church, public library,

584 public playground, or park; and

585 (f) otherwise regulate the retail sale of beer for off-premise consumption subject to the
586 requirements of Sections 32A-10-102 and 32A-10-103.

587 (2) The commission shall issue licenses to sell beer at retail for on-premise
588 consumption as provided in Part 2, On-Premise Beer Retailer Licenses.

589 (3) Each licensee issued a license for on-premise consumption, by the commission
590 under Subsection (2) or by the local authority under Subsection (1), is subject to the operational
591 restrictions provided in Section 32A-10-206, except as otherwise provided.

592 (4) Suspension or revocation of an on-premise beer retailer license issued by the
593 commission under Subsection (2) or an on-premise beer retailer license issued by a local
594 authority under Subsection (1) prohibits the establishment whose license is suspended or
595 revoked from continuing to operate under the other state or local license it may have.

596 (5) The commission shall issue temporary permits to sell beer at retail for on-premise
597 consumption at temporary special events that do not last longer than 30 days as provided in
598 Part 3, Temporary Special Event Beer Permits.

599 (6) Each permittee issued a temporary permit by the commission under Subsection (5)
600 or by the local authority under Subsection (1), is subject to the operational restrictions provided
601 in Section 32A-10-306, except as otherwise provided.

602 (7) Suspension or revocation of a temporary permit issued by the commission under
603 Subsection (5) or by a local authority under Subsection (1) prohibits the permittee whose
604 permit is suspended or revoked from continuing to operate under the other state or local permit
605 the permittee may have.

606 Section 5. Section **32A-10-103** is enacted to read:

607 **32A-10-103. Alcohol training and education for off-premise consumption.**

608 (1) (a) A local authority that issues an off-premise beer retailer license to a general
609 food store or similar business to sell beer at retail for off-premise consumption shall require the
610 following to have a valid certificate that the individual completed an alcohol training and
611 education seminar required by Section 62A-15-401 in the time frames required by Subsection
612 (1)(b), any individual who:

613 (i) directly supervises the sale of beer to a customer for consumption off the premises
614 of the off-premise beer retailer licensee; or

615 (ii) sells beer to a customer for consumption off the premises of the off-premise beer
616 retailer licensee.

617 (b) (i) An individual shall complete an alcohol training and education seminar required
618 by Section 62A-15-401 within 30 days of the day on which the individual is employed by an
619 off-premise beer retailer licensee if the individual:

620 (A) is employed on or after September 1, 2006; and

621 (B) on the date of employment, does not have a valid certificate that the individual has
622 completed an alcohol training and education seminar for purposes of this section.

623 (ii) An individual shall complete an alcohol training and education seminar by not later
624 than October 1, 2006 if the individual:

625 (A) is employed before September 1, 2006; and

626 (B) on September 1, 2006, does not have a valid certificate that the individual has
627 completed an alcohol training and education seminar for purposes of this section.

628 (iii) The validity of a certificate that an individual has completed an alcohol training
629 and education seminar required by this section is governed by Section 62A-15-401.

630 (2) In accordance with Section 32A-1-401, a local authority may immediately suspend
631 the license of an off-premise beer retailer that allows an employee to directly supervise the sale
632 of beer or to sell beer to a customer without having a valid certificate that the individual
633 completed an alcohol training and education seminar in accordance with Subsection (1).

634 (3) (a) Each employee of a licensed off-premise beer retailer who directly supervises
635 the sale of beer or who sells beer to a customer for consumption off the premises of the
636 off-premise beer retailer shall wear a unique identification badge:

637 (i) on the front of the employee's clothing;

638 (ii) visible above the waist;

639 (iii) bearing the employee's:

640 (A) first or last name;

641 (B) initials; or

642 (C) unique identification in letters or numbers; and

643 (iv) with the number or letters on the unique identification badge being sufficiently
644 large to be clearly visible and identifiable while engaging in or directly supervising the retail
645 sale of beer.

646 (b) (i) An off-premise beer retailer licensee shall maintain a record of all current
647 employee unique identification badges assigned by the off-premise beer retailer licensee.

648 (ii) The record required to be maintained under Subsection (3)(b)(i) shall:

649 (A) be available for immediate inspection by:

650 (I) any peace officer; or

651 (II) representative of the local licensing authority; and

652 (B) include the employee's:

653 (I) full name;

654 (II) address; and

655 (III) (Aa) driver license number; or

656 (Bb) similar identification number.

657 (c) A local authority may impose a fine of up to \$250 against any off-premise beer
658 retailer that does not comply or require its employees to comply with this Subsection (3).

659 (4) (a) In addition to any criminal penalties that may be imposed, an individual is
660 subject to the administrative penalties imposed by a local authority described in Subsection
661 (4)(b) if:

662 (i) that individual:

663 (A) completes an alcohol training and education seminar required by Subsection (1);

664 and

665 (B) after completing the alcohol training and education seminar required by Subsection
666 (1), is found in violation of any law involving the sale of an alcoholic beverage to a minor;

667 (ii) the violation described in Subsection (4)(a)(i)(B) is based on conduct that occurs
668 while the individual is on duty as an employee of an off-premise beer retailer licensee; and

669 (iii) the local authority brings an adjudicative proceeding against the individual.

670 (b) If the conditions of Subsection (4)(a) are met, a local authority shall impose the
671 following administrative penalties:

672 (i) upon a first violation, the individual may not sell or directly supervise the sale of
673 beer to a customer for consumption off the premises of the off-premise beer retailer licensee

674 until the individual retakes and completes an alcohol training and education seminar described
675 in Section 62A-15-401;

676 (ii) upon a second violation, the individual may not sell or directly supervise the sale of

677 beer to a customer for consumption off the premises of the off-premise beer retailer licensee
678 until the later of:

679 (A) 90 days from the day on which the administrative penalty is imposed; and

680 (B) the day on which the individual:

681 (I) retakes and completes the alcohol training and education seminar described in
682 Section 62A-15-401; and

683 (II) completes any additional training that the local authority may require; and

684 (iii) upon a third or subsequent violation, the individual may not sell or directly
685 supervise the sale of beer to a customer for consumption off the premises of the off-premise
686 beer retailer licensee until the later of:

687 (A) one year from the day on which the administrative penalty is imposed; and

688 (B) the day on which the individual:

689 (I) retakes and completes an alcohol training and education seminar described in
690 Section 62A-15-401; and

691 (II) completes any additional training that the local authority may require.

692 (c) (i) During the period of time an individual is prohibited from selling or directly
693 supervising the sale of beer under Subsection (4)(b), an off-premise beer retailer licensee may
694 not allow that individual to:

695 (A) directly supervise the sale of beer for the off-premise beer retailer licensee; or

696 (B) sell beer for the off-premise beer retailer licensee.

697 (ii) A violation of this Subsection (4)(c) is grounds for the immediate suspension of the
698 off-premise beer retailer's license.

699 (5) (a) In addition to any criminal penalties that may be imposed, an off-premise beer
700 retailer licensee is subject to the administrative penalties imposed by a local authority described
701 in Subsection (5)(b) if:

702 (i) an employee of the off-premise beer retailer licensee is found in violation of any law
703 involving the sale of alcoholic beverage to a minor;

704 (ii) the violation described in Subsection (5)(a)(i) occurs while the employee is on duty
705 for the off-premise beer retailer licensee; and

706 (iii) the local authority brings an adjudicative proceeding against the off-premise beer
707 retailer licensee.

708 (b) If the conditions of Subsection (5)(a) are met, a local authority shall impose the
709 following administrative penalties:

710 (i) upon a first violation, the off-premise beer retailer licensee shall be issued a written
711 warning:

712 (ii) upon a second violation, the off-premise beer retailer licensee shall pay a civil fine
713 of \$250;

714 (iii) upon a third violation, the off-premise beer retailer licensee shall pay a civil fine of
715 \$500;

716 (iv) upon a fourth or subsequent violation, the off-premise beer retailer licensee shall:

717 (A) pay a civil fine of \$500;

718 (B) have its license to sell beer suspended for a period of 30 consecutive days from the
719 date on which the administrative penalty is imposed; and

720 (C) be placed on probation for a period of one year from the date on which the
721 administrative penalty is imposed; and

722 (v) upon any violation by the off-premise beer retailer licensee or any on-duty
723 employee of the off-premise beer retailer licensee during the period of probation specified in
724 Subsection (5)(b)(iv)(C):

725 (A) the off-premise beer retailer licensee's license to sell beer shall be revoked; and
726 (B) the off-premise beer retailer licensee is not eligible to reapply for a new license for
727 at least six months from the date of revocation.

728 (c) (i) An off-premise beer retailer licensee's failure to pay a fine imposed under this
729 Subsection (5) within 30 days of the day on which the fine is imposed is grounds for the
730 immediate suspension of the off-premise beer retailer licensee's license to sell beer until
731 payment is made.

732 (ii) An off-premise beer retailer licensee's failure to pay the fine described in
733 Subsection (5)(c)(i) within 30 days of the day on which the license is suspended under
734 Subsection (5)(c)(i) is grounds for revocation of the licensee's license to sell beer.

735 (6) (a) Any local authority that adjudicates an administrative penalty for a violation of
736 any law involving the sale of an alcoholic beverage to any minor pursuant to Subsection (4) or
737 (5), shall:

738 (i) maintain a record of the adjudicated violation until the record is expunged under

739 Subsection (6)(c):

740 (ii) include in the record described in Subsection (6)(a)(i):

741 (A) the name of the individual who committed the violation;

742 (B) the name of the off-premise beer retailer licensee for whom the individual was

743 employed at the time of the violation; and

744 (C) the date of the adjudication of the violation; and

745 (iii) provide the Highway Safety Office of the Department of Public Safety within 30

746 days of the date on which a violation is adjudicated the information described in Subsection

747 (6)(a)(ii).

748 (b) (i) The Highway Safety Office shall develop and operate a system to collect,

749 analyze, maintain, track, and disseminate the violation history information received under

750 Subsection (6)(a).

751 (ii) The system described in Subsection (6)(b)(i) shall be made available to:

752 (A) assist a local authority in assessing administrative penalties under Subsection (4);

753 and

754 (B) inform an off-premise beer retailer licensee of an individual who has an

755 administrative violation history under Subsection (4).

756 (iii) The Highway Safety Office shall maintain a record of violation history information

757 received pursuant Subsection (6)(a) until the record is expunged under Subsection (6)(c).

758 (c) (i) A local authority and the Highway Safety Office shall expunge from the records

759 maintained under this Subsection (6) an administrative penalty imposed under Subsection (4)

760 for purposes of determining future administrative penalties under Subsection (4) if the

761 individual has not been found in violation of any law involving the sale of an alcoholic

762 beverage to a minor for a period of 36 consecutive months from the day on which the

763 individual is last adjudicated as violating a law involving the sale of an alcoholic beverage to a

764 minor.

765 (ii) A local authority shall expunge from the records maintained by the local authority

766 an administrative penalty imposed under Subsection (5) against an off-premise beer retailer

767 licensee for purposes of determining future administrative penalties under Subsection (5) if the

768 off-premise beer retailer licensee or any employee of that off-premise beer retailer licensee has

769 not been found in violation of any law involving the sale of an alcoholic beverage to a minor

770 for a period of 36 consecutive months from the day on which the off-premise beer retailer
771 licensee or its employee is last adjudicated as violating a law involving the sale of an alcoholic
772 beverage to a minor.

773 (7) (a) A local authority shall conduct a hearing if an off-premise beer retailer licensee
774 or individual identified in Subsection (1) requests a hearing before the local authority.

775 (b) A local authority conducting a hearing under this Subsection (7) shall provide the
776 person requesting the hearing:

777 (i) notice of the hearing; and

778 (ii) an opportunity to be heard at the hearing.

779 (8) The Highway Safety Office of the Department of Pubic Safety shall administer a
780 program to:

781 (a) reimburse a municipal or county law enforcement agency:

782 (i) for the actual costs of an alcohol-related compliance check investigation conducted
783 pursuant to Section 77-39-101;

784 (ii) for any administrative costs associated with reporting the compliance check
785 investigation described in Subsection (8)(a)(i);

786 (iii) if the municipal or county law enforcement agency completes and submits to the
787 Highway Safety Office a report within 90 days of the compliance check investigation described
788 in Subsection (8)(a)(i) in a format required by the Highway Safety Office; and

789 (iv) in the order that the municipal or county law enforcement agency submits the
790 report required by Subsection (8)(a)(iii) until the amount allocated by the Highway Safety
791 Office to reimburse a municipal or county law enforcement agency is spent;

792 (b) develop and operate a system to collect, analyze, maintain, track, and disseminate
793 violation history information pursuant to Subsection (6); and

794 (c) have the Highway Safety Office report to the Utah Substance Abuse and
795 Anti-Violence Coordinating Council by no later than October 1 following a fiscal year on the
796 following funded during the prior fiscal year:

797 (i) all compliance check investigations reimbursed under Subsection (8)(a); and

798 (ii) the collection, analysis, maintenance, tracking, and dissemination of violation
799 history information provided in Subsection (8)(b).

800 Section 6. Section **62A-15-401** is amended to read:

801 **62A-15-401. Alcohol training and education seminar.**

802 (1) As used in this part:

803 (a) "general food store" is as defined in Section 32A-1-105;804 [~~(a)~~] (b) "instructor" means a person that directly provides the instruction during an

805 alcohol training and education seminar for a seminar provider;

806 [~~(b)~~] (c) "licensee" means a person who is:

807 (i) (A) a new or renewing licensee under Title 32A, Alcoholic Beverage Control Act;

808 and

809 [~~(ii)~~] (B) engaged in the retail sale of alcoholic beverages for consumption on the810 premises of the licensee; [~~and~~] or811 (ii) a general food store or similar business that is:812 (A) a new or renewing licensee licensed by a city, town, or county; and813 (B) engaged in the retail sale of beer for consumption off the premises of the licensee;814 (d) "off-premise beer retailer" is as defined in Section 32A-1-105; and815 [~~(e)~~] (e) "seminar provider" means a person other than the division who provides an

816 alcohol training and education seminar meeting the requirements of this section.

817 (2) (a) This section applies to [~~a person~~] an individual who, as defined by the board by

818 rule:

819 (i) manages operations at the premises of a licensee engaged in the retail sale of820 alcoholic beverages for consumption on the premises of the licensee;

821 (ii) supervises the serving of alcoholic beverages to a customer for consumption on the

822 premises of a licensee; [~~or~~]

823 (iii) serves alcoholic beverages to a customer for consumption on the premises of a

824 licensee[.];

825 (iv) directly supervises the sale of beer to a customer for consumption off the premises826 of an off-premise beer retailer licensee; or827 (v) sells beer to a customer for consumption off the premises of an off-premise beer828 retailer licensee.829 (b) [~~A person~~] If the individual does not have a valid certificate that the individual has830 completed an alcohol training and education seminar, an individual described in Subsection

831 (2)(a) shall:

832 (i) (A) complete an alcohol training and education seminar within 30 days of the
833 following if the individual is described in Subsections (2)(a)(i) through (iii):

834 ~~[(A)]~~ (I) if the [person] individual is an employee, the day the [person] individual
835 begins employment;

836 ~~[(B)]~~ (II) if the [person] individual is an independent contractor, the day the [person]
837 individual is first hired; or

838 ~~[(C)]~~ (III) if the [person] individual holds an ownership interest in the licensee, the day
839 that [person] the individual first engages in an activity that would result in that [person]
840 individual being required to complete an alcohol training and education seminar; ~~[and]~~ or

841 (B) complete an alcohol training and education seminar within the time periods
842 specified in Subsection 32A-10-103(1) if the individual is described in Subsections (2)(a)(iv)
843 and (v); and

844 (ii) pay a fee:

845 (A) to the seminar provider; and

846 (B) that is equal to or greater than the amount established under Subsection (4)(h).

847 ~~[(c) Notwithstanding Subsection (2)(b)(i)(C), a person described in Subsection~~
848 ~~(2)(b)(i)(C) shall complete an alcohol training and education seminar by no later than July 31,~~
849 ~~2001, if as of May 1, 2001 the person:]~~

850 ~~[(i) holds an ownership interest in the licensee; and]~~

851 ~~[(ii) has engaged in an activity that would result in that person being required to~~
852 ~~complete an alcohol training and education seminar.]~~

853 (c) An individual shall have a valid certificate that the individual completed an alcohol
854 training and education seminar within the time period provided in this Subsection (2) to engage
855 in an activity described in Subsection (2)(a).

856 (d) A certificate that an individual has completed an alcohol training and education
857 seminar is valid for:

858 (i) three years from the day on which the certificate is issued for an individual
859 described in Subsection (2)(a)(i), (ii), or (iii); and

860 (ii) five years from the day on which the certificate is issued for an individual described
861 in Subsection (2)(a)(iv) or (v).

862 (3) (a) A licensee may not permit ~~[a person]~~ an individual who is not in compliance

863 with Subsection (2) to:

864 (i) serve or supervise the serving of alcoholic beverages to a customer for consumption
865 on the premises of the licensee; [~~or~~]

866 (ii) engage in any activity that would constitute managing operations at the premises of
867 a licensee[-] that engages in the retail sale of alcoholic beverages for consumption on the
868 premises of the licensee;

869 (iii) directly supervise the sale of beer to a customer for consumption off the premises
870 of an off-premise beer retailer licensee; or

871 (iv) sell beer to a customer for consumption off the premises of an off-premise beer
872 retailer licensee.

873 (b) A licensee that violates Subsection (3)(a) is subject to Section 32A-1-401.

874 (4) The division shall:

875 (a) (i) provide alcohol training and education seminars; or

876 (ii) certify one or more seminar providers;

877 (b) establish the curriculum for an alcohol training and education seminar that includes
878 the following subjects:

879 (i) (A) alcohol as a drug; and

880 (B) alcohol's effect on the body and behavior;

881 (ii) recognizing the problem drinker or signs of intoxication;

882 (iii) an overview of state alcohol laws related to responsible beverage sale or service,
883 as determined in consultation with the Department of Alcoholic Beverage Control;

884 (iv) dealing with the problem customer, including ways to terminate sale or service;

885 and

886 (v) for those supervising or engaging in the retail sale of alcoholic beverages for
887 consumption on the premises of a licensee, alternative means of transportation to get the
888 customer safely home;

889 (c) recertify each seminar provider every three years;

890 (d) monitor compliance with the curriculum described in Subsection (4)(b);

891 (e) maintain for at least [~~three~~] five years a record of every person who has completed
892 an alcohol training and education seminar;

893 (f) provide the information described in Subsection (4)(e) on request to:

- 894 (i) the Department of Alcoholic Beverage Control; [or]
895 (ii) law enforcement; or
896 (iii) a person licensed by the state or a local government to sell alcoholic beverages;
897 (g) provide the Department of Alcoholic Beverage Control on request a list of any
898 seminar provider certified by the division; and
899 (h) establish a fee amount for each person attending an alcohol training and education
900 seminar that is sufficient to offset the division's cost of administering this section.
901 (5) The board shall by rule made in accordance with Title 63, Chapter 46a, Utah
902 Administrative Rulemaking Act:
903 (a) define what constitutes under this section [~~a person~~] an individual who:
904 (i) manages operations at the premises of a licensee engaged in the retail sale of
905 alcoholic beverages for consumption on the premises of the licensee;
906 (ii) supervises the serving of alcoholic beverages to a customer for consumption on the
907 premises of a licensee; [or]
908 (iii) serves alcoholic beverages to a customer for consumption on the premises of a
909 licensee;
910 (iv) directly supervises the sale of beer to a customer for consumption off the premises
911 of an off-premise retailer beer licensee; or
912 (v) sells beer to a customer for consumption off the premises of an off-premise beer
913 retailer licensee;
914 (b) establish criteria for certifying and recertifying a seminar provider; and
915 (c) establish guidelines for the manner in which an instructor provides an alcohol
916 education and training seminar.
917 (6) A seminar provider shall:
918 (a) obtain recertification by the division every three years;
919 (b) ensure that an instructor used by the seminar provider:
920 (i) follows the curriculum established under this section; and
921 (ii) conducts an alcohol training and education seminar in accordance with the
922 guidelines established by rule;
923 (c) ensure that any information provided by the seminar provider or instructor of a
924 seminar provider is consistent with:

- 925 (i) the curriculum established under this section; and
- 926 (ii) this section;
- 927 (d) provide the division with the names of all persons who complete an alcohol training
- 928 and education seminar provided by the seminar provider;
- 929 (e) (i) collect a fee for each person attending an alcohol training and education seminar
- 930 in accordance with Subsection (2); and
- 931 ~~[(f)]~~ (ii) forward to the division the portion of the fee that is equal to the amount
- 932 described in Subsection (4)(h)~~[-]; and~~
- 933 (f) issue a certificate to an individual that completes an alcohol training and education
- 934 seminar provided by the seminar provider.

935 (7) (a) If after a hearing conducted in accordance with Title 63, Chapter 46b,

936 Administrative Procedures Act, the division finds that a seminar provider violates this section

937 or that an instructor of the seminar provider violates this section, the division may:

- 938 (i) suspend the certification of the seminar provider for a period not to exceed 90 days;
- 939 (ii) revoke the certification of the seminar provider;
- 940 (iii) require the seminar provider to take corrective action regarding an instructor; or
- 941 (iv) prohibit the seminar provider from using an instructor until such time that the
- 942 seminar provider establishes to the satisfaction of the division that the instructor is in
- 943 compliance with Subsection (6)(b).

944 (b) The division may certify a seminar provider whose certification is revoked:

- 945 (i) no sooner than 90 days from the date the certification is revoked; and
- 946 (ii) if the seminar provider establishes to the satisfaction of the division that the
- 947 seminar provider will comply with this section.

948 Section 7. Section **77-39-101** is amended to read:

949 **77-39-101. Investigation of sales of alcohol and tobacco to under age persons.**

950 (1) (a) A peace officer, as defined by Title 53, Chapter 13, Peace Officer

951 Classifications, may investigate the possible violation of:

- 952 (i) ~~Section 32A-12-203 [or Section 76-10-104 by requesting a person under the legal~~
- 953 ~~age to attempt to purchase alcohol as provided in Section 32A-12-203, or tobacco as provided~~
- 954 ~~in Section 76-10-104, to enter into and attempt to purchase or make a purchase of alcohol or~~
- 955 ~~tobacco products from a retail establishment.] by requesting an individual under the age of 21~~

956 years to enter into and attempt to purchase or make a purchase of alcohol from a retail
957 establishment; or

958 (ii) Section 76-10-104 by requesting an individual under the age of 19 years to enter
959 into and attempt to purchase or make a purchase from a retail establishment of:

960 (A) a cigar;

961 (B) a cigarette; or

962 (C) tobacco in any form.

963 (b) A peace officer who is present at the site of a proposed purchase shall direct,
964 supervise, and monitor the [person] individual requested to make the purchase.

965 (c) Immediately following [~~the~~] a purchase or attempted purchase or as soon as
966 practical the supervising peace officer shall inform the cashier and the proprietor or manager of
967 the retail establishment that the attempted purchaser was under the legal age to purchase;

968 (i) alcohol; or

969 (ii) (A) a cigar;

970 (B) a cigarette; or

971 (C) tobacco in any form.

972 (d) If a citation or information is issued, it shall be issued within seven days of the
973 purchase.

974 (2) (a) If [~~a person~~] an individual under the age of 18 years old is requested to attempt a
975 purchase, a written consent of that [person's] individual's parent or guardian shall be obtained
976 prior to that [person] individual participating in any attempted purchase.

977 (b) [~~A person~~] An individual requested by the peace officer to attempt a purchase may;

978 (i) be a trained volunteer; or

979 (ii) receive payment, but may not be paid based on the number of successful purchases
980 of alcohol or tobacco.

981 (3) The [person] individual requested by the peace officer to attempt a purchase and
982 anyone accompanying the [person] individual attempting a purchase may not during the
983 attempted purchase misrepresent the age of the [person] individual by false or misleading
984 identification documentation in attempting the purchase.

985 (4) [~~A person~~] An individual requested to attempt to purchase [~~alcohol or tobacco~~] or
986 make a purchase pursuant to this section is immune from prosecution, suit, or civil liability for

987 the purchase of, attempted purchase of, or possession of alcohol [~~or~~], a cigar, a cigarette, or
988 tobacco in any form if a peace officer directs, supervises, and monitors the [~~person~~] individual.

989 (5) (a) Except as provided in Subsection (5)(b), a purchase attempted under this section
990 shall be conducted:

991 (i) on a random basis[~~, but not more often than four times~~]; and

992 (ii) within a 12-month period at any one retail establishment location[~~;~~] not more often

993 than:

994 (A) four times for the attempted purchase of:

995 (I) a cigar;

996 (II) a cigarette; or

997 (III) tobacco in any form; and

998 (B) four times for the attempted purchase of alcohol.

999 (b) Nothing in this section shall prohibit an investigation under this section if:

1000 (i) there is reasonable suspicion to believe the retail establishment has sold alcohol
1001 [~~or~~], a cigar, a cigarette, or tobacco in any form to [~~a person~~] an individual under the age
1002 established by Section 32A-12-203 or 76-10-104; and

1003 (ii) the supervising peace officer makes a written record of the grounds for the
1004 reasonable suspicion.

1005 (6) (a) The peace officer exercising direction, supervision, and monitoring of the
1006 attempted purchase shall make a report of the attempted purchase, whether or not a purchase
1007 was made.

1008 (b) The report required by this Subsection (6) shall include:

1009 (i) the name of the supervising peace officer;

1010 (ii) the name of the [~~person~~] individual attempting the purchase;

1011 (iii) a photograph of the [~~person~~] individual attempting the purchase showing how that
1012 [~~person~~] individual appeared at the time of the attempted purchase;

1013 (iv) the name and description of the cashier or proprietor from whom the [~~person~~]
1014 individual attempted the purchase;

1015 (v) the name and address of the retail establishment; and

1016 (vi) the date and time of the attempted purchase.

1017 Section 8. **Appropriation.**

1018 There is appropriated:

1019 (1) as an ongoing appropriation subject to future budget constraints, \$543,750 from the
1020 General Fund for fiscal year 2006-07, to the Department of Public Safety to be used by the
1021 Highway Safety Office as provided in Section 32A-10-103; and

1022 (2) \$1,631,250 from the General Fund for fiscal year 2006-07 only, to the Department
1023 of Alcoholic Beverage Control to direct and fund one or more media and education campaigns
1024 designed to reduce underage drinking in cooperation with the Utah Substance Abuse and
1025 Anti-Violence Coordinating Council as follows:

1026 (a) the coordinating council shall:

1027 (i) provide ongoing oversight of any media and education campaign funded under this
1028 Subsection (2);

1029 (ii) create an underage drinking workgroup pursuant to guidelines made by the
1030 coordinating council related to the membership and duties of the underage drinking workgroup;

1031 (iii) make guidelines for how funds appropriated for a media and education campaign
1032 can be used;

1033 (iv) require in the guidelines established pursuant to this Subsection (2) that a media
1034 and education campaign funded under this Subsection (2) is carefully researched and
1035 developed, and appropriate for target groups; and

1036 (v) approve plans submitted by the Department of Alcoholic Beverage Control in
1037 accordance with this Subsection (2);

1038 (b) the Department of Alcoholic Beverage Control shall:

1039 (i) in cooperation with the underage drinking workgroup created under Subsection
1040 (2)(a), prepare and submit a plan to the coordinating council detailing the intended use of the
1041 monies appropriated under this Subsection (2);

1042 (ii) upon approval of the plan by the coordinating council, conduct the media and
1043 education campaign in accordance with the guidelines made by the coordinating council; and

1044 (iii) report to the coordinating council by no later than the October 1, 2007, on the
1045 media and education campaigns conducted under this Subsection (2); and

1046 (c) the Legislature intends for the appropriation under this Subsection (2) to be
1047 nonlapsing.

1048 Section 9. **Effective date.**

1049

This bill takes effect on July 1, 2006.

Fiscal Note**Bill Number SB0058S01****Alcoholic Beverage Amendments - Eliminating Alcohol
Sales to Youth***01-Mar-06**11:33 AM*

State Impact

This bill appropriates \$543,750 from the General Fund to the Department of Public Safety - Highway Safety Office and \$1,631,250 from General Fund (one-time) to the Department of Alcoholic Beverage Control.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>
General Fund	\$543,750	\$543,750	\$0	\$0
General Fund, One-Time	\$1,631,250	\$0	\$0	\$0
TOTAL	\$2,175,000	\$543,750	\$0	\$0

Individual and Business Impact

Violators of the bill may pay fines and be required to take a training course. Employer violators may also pay fines. Both may face license suspension.

Office of the Legislative Fiscal Analyst