

1 **UTAH SUBSTANCE ABUSE AND**  
2 **ANTI-VIOLENCE COORDINATING COUNCIL**  
3 **AMENDMENTS**

4 2010 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: J. Stuart Adams**

7 House Sponsor: Ronda Rudd Menlove

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8  
9 **LONG TITLE**

10 **General Description:**

11 This bill modifies provisions related to the name, membership, and duties of the Utah  
12 Substance Abuse and Anti-Violence Coordinating Council.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ changes the name of the Utah Substance Abuse and Anti-Violence Coordinating
- 16 Council to the Utah Substance Abuse ~~§~~→ [~~Coordinating~~] Advisory ←~~§~~ Council;
- 17 ▶ modifies the membership and duties of the council;
- 18 ▶ repeals a related section, the operation of which terminated in 2009; and
- 19 ▶ makes technical changes.

20 **Monies Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **26-7-5**, as enacted by Laws of Utah 2008, Chapter 135

27 **32A-1-115**, as last amended by Laws of Utah 2009, Chapter 383

S.B. 141



- 28           **32A-10-103**, as last amended by Laws of Utah 2007, Chapter 284
- 29           **63M-7-202**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 30           **63M-7-301**, as last amended by Laws of Utah 2009, Chapter 90
- 31           **63M-7-302**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 32           **63M-7-303**, as last amended by Laws of Utah 2009, Chapter 337
- 33           **63M-7-304**, as last amended by Laws of Utah 2008, Chapter 31 and renumbered and
- 34 amended by Laws of Utah 2008, Chapter 382
- 35           **63M-7-305**, as last amended by Laws of Utah 2009, Chapter 337
- 36           **63M-7-306**, as renumbered and amended by Laws of Utah 2008, Chapter 382

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

39           Section 1. Section **26-7-5** is amended to read:

40           **26-7-5. Public education and outreach regarding substances harmful during**  
41 **pregnancy.**

42           Beginning on July 1, 2008, and ending on June 30, 2009, the department shall, under  
43 the direction of the Utah Substance Abuse [and Anti-violence] ~~§~~→ [Coordinating] Advisory ←~~§~~  
43a Council, created  
44 in Section 63M-7-303, and in consultation with the Division of Substance Abuse and Mental  
45 Health, within the Department of Human Services, conduct a public education and outreach  
46 program to inform pregnant women and women who may become pregnant of:

- 47           (1) the danger of using alcohol, tobacco, or other harmful substances during pregnancy;
- 48           (2) treatment and other assistance available to help women avoid or stop the use or
- 49 abuse of a substance described in Subsection (1); and
- 50           (3) legal protections provided by law or court rule that prohibit information relating to
- 51 treatment received under Subsection (2) from being used as evidence against the woman in
- 52 court.

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

54           **32A-1-115. Alcoholic Beverage Enforcement and Treatment Restricted Account**  
55 **-- Distribution.**

56           (1) As used in this section:

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

58a ~~§~~→ (b) "Advisory council" means the Utah Substance Abuse Advisory Council created in Section

58b 63M-7-301. ←~~§~~

59            ~~§~~→ [(b)] (c) ←~~§~~ "Alcohol-related offense" means:

60            (i) a violation of:

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

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

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

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

65            (ii) an offense involving the:

66            (A) illegal sale of alcohol;

67            (B) illegal distribution of alcohol;

68            (C) illegal transportation of alcohol;

69            (D) illegal possession of alcohol; or

70            (E) illegal consumption of alcohol.

71            (c) "Annual conviction time period" means the time period that:

72            (i) begins on July 1 and ends on June 30; and

73            (ii) immediately precedes the fiscal year for which an appropriation under this section  
74 is made.

75            ~~§~~→ [(d)] "~~Coordinating Advisory council~~" means the Utah Substance Abuse ~~[and Anti-Violence]~~

76 ~~Coordinating Advisory Council created in Section 63M-7-301.~~

77 ~~——~~ (e)] (d) ←~~§~~ "Municipality" means:

78            (i) a city; or

79            (ii) a town.

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

82            (b) The account shall be funded from:

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

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

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

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

87            (d) (i) Consistent with the policies provided in Subsection 32A-1-104(4)(b), the  
88 revenues in the account shall be used for statewide public purposes including promoting the  
89 reduction of the harmful effects of over consumption of alcoholic beverages by adults and

90 alcohol consumption by minors by funding exclusively programs or projects related to  
91 prevention, treatment, detection, prosecution, and control of violations of this title and other  
92 offenses in which alcohol is a contributing factor except as provided in Subsection (2)(d)(ii).

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

96 (iii) A municipality or county entitled to receive monies shall use the monies  
97 exclusively as required by this Subsection (2)(d).

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

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

102 (B) not intended to replace monies that would otherwise be allocated for the programs  
103 and projects in this Subsection (2)(d).

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

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

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

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

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

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

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

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

120 (c) (i) Except as provided in Subsection (3)(c)(iii), a municipality that does not have a

121 law enforcement agency may not receive monies under this section.

122 (ii) The State Tax Commission:

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

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

128 (iii) Notwithstanding Subsections (3)(c)(i) and (ii), if the ~~§~~→ [coordinating] advisory ←~~§~~  
128a council finds  
129 that a municipality described in Subsection (3)(c)(i) demonstrates that the municipality can use  
130 the monies that the municipality is otherwise eligible to receive in accordance with this section,  
131 the ~~§~~→ [coordinating] advisory ←~~§~~ council may direct the State Tax Commission to distribute the  
131a money to the  
132 municipality.

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

135 (a) for an annual conviction time period:

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

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

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

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

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

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

149 (5) For purposes of this section:

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

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

153 (ii) includes all:

154 (A) club licenses;

155 (B) restaurants;

156 (C) limited restaurants;

157 (D) on-premise banquet licenses;

158 (E) airport lounges;

159 (F) resort licenses;

160 (G) package agencies; and

161 (H) state stores; and

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

163 (b) the number of state stores, package agencies, and licensees in a county consists only

164 of that number located within unincorporated areas of the county;

165 (c) population figures shall be determined according to the most current population

166 estimates prepared by the Utah Population Estimates Committee;

167 (d) a county's population figure for the 25% distribution to municipalities and counties

168 under Subsection (3)(b)(i) shall be determined only with reference to the population in the

169 unincorporated areas of the county;

170 (e) a county's population figure under Subsection (3)(b)(iv) for the 25% distribution to

171 counties only shall be determined with reference to the total population in the county, including

172 that of municipalities;

173 (f) a conviction occurs in the municipality or county that actually prosecutes the

174 offense to judgment; and

175 (g) in the case of a conviction based upon a guilty plea, the conviction is considered to

176 occur in the municipality or county that, except for the guilty plea, would have prosecuted the

177 offense.

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

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

180 of convictions obtained for alcohol-related offenses in each municipality or county in the state

181 during the annual conviction time period; and

182 (b) the ~~§~~→ **[coordinating]** advisory ~~←~~§ council shall notify the State Tax Commission of any

182a municipality

183 that does not have a law enforcement agency.

184 (7) By not later than December 1 of each year, the ~~§~~→ [coordinating] advisory ←~~§~~ council  
184a shall notify the

185 State Tax Commission for the fiscal year of appropriation of:

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

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

189 (c) any municipality or county that may not receive a distribution because the  
190 ~~§~~→ [coordinating] advisory ←~~§~~ council has suspended the payment under Subsection (10)(a)(i); and

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

193 (8) (a) By not later than January 1 of the fiscal year of appropriation, the State Tax  
194 Commission shall annually distribute to each municipality and county the portion of the  
195 appropriation that the municipality or county is eligible to receive under this section, except for  
196 any municipality or county that the ~~§~~→ [coordinating] advisory ←~~§~~ council notifies the State Tax  
196a Commission in

197 accordance with Subsection (7) may not receive a distribution in that fiscal year.

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

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

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

205 (a) report to the ~~§~~→ [coordinating] advisory ←~~§~~ council:

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

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

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

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

- 214 (b) provide the ~~§~~→ [coordinating] advisory ←~~§~~ council a statement signed by the chief  
 214a executive officer  
 215 of the county or municipality attesting that the monies received under this section were used in  
 216 addition to monies appropriated or otherwise available for the county's or municipality's law  
 217 enforcement and were not used to supplant those monies.
- 218 (10) (a) The ~~§~~→ [coordinating] advisory ←~~§~~ council may, by a majority vote:  
 219 (i) suspend future payments under Subsection (8) to a municipality or county that:  
 220 (A) does not file a report that meets the requirements of Subsection (9); or  
 221 (B) the ~~§~~→ [coordinating] advisory ←~~§~~ council finds does not use the monies as required by  
 221a Subsection  
 222 (2)(d) on the basis of the report filed by the municipality or county under Subsection (9); and  
 223 (ii) cancel a suspension under Subsection (10)(a)(i).  
 224 (b) The State Tax Commission shall:  
 225 (i) retain monies that a municipality or county does not receive under Subsection  
 226 (10)(a); and  
 227 (ii) notify the ~~§~~→ [coordinating] advisory ←~~§~~ council of the balance of retained monies  
 227a under this  
 228 Subsection (10)(b) after the annual distribution under Subsection (8).
- 229 (11) (a) Subject to the requirements of this Subsection (11), the ~~§~~→ [coordinating] advisory ←~~§~~  
 229a council  
 230 shall award the balance of retained monies under Subsection (10)(b):  
 231 (i) as prioritized by majority vote of the ~~§~~→ [coordinating] advisory ←~~§~~ council; and  
 232 (ii) as grants to:  
 233 (A) a county;  
 234 (B) a municipality;  
 235 (C) the Department of Alcoholic Beverage Control;  
 236 (D) the Department of Human Services;  
 237 (E) the Department of Public Safety; or  
 238 (F) the Utah State Office of Education.
- 239 (b) By not later than May 30 of the fiscal year of the appropriation, the ~~§~~→ [coordinating]  
 239a advisory ←~~§~~  
 240 council shall notify the State Tax Commission of grants awarded under this Subsection (11).  
 241 (c) The State Tax Commission shall make payments of a grant:  
 242 (i) upon receiving notice as provided under Subsection (11)(b); and  
 243 (ii) by not later than June 30 of the fiscal year of the appropriation.  
 244 (d) An entity that receives a grant under this Subsection (11) shall use the grant monies

245 exclusively for programs or projects described in Subsection (2)(d).

246 Section 3. Section **32A-10-103** is amended to read:

247 **32A-10-103. Alcohol training and education for off-premise consumption --**  
248 **Requirements on off-premise beer retailer licensees -- Penalties related to sales to minors**  
249 **-- Hearings -- Tracking.**

250 (1) (a) A local authority that issues an off-premise beer retailer license to a business to  
251 sell beer at retail for off-premise consumption shall require the following to have a valid  
252 certificate that the individual completed an alcohol training and education seminar required by  
253 Section 62A-15-401 in the time frames required by Subsection (1)(b), any individual who:

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

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

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

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

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

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

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

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

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

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

275 (3) (a) Each employee of a licensed off-premise beer retailer who directly supervises

276 the sale of beer or who sells beer to a customer for consumption off the premises of the  
277 off-premise beer retailer shall wear a unique identification badge:

- 278 (i) on the front of the employee's clothing;
- 279 (ii) visible above the waist;
- 280 (iii) bearing the employee's:
  - 281 (A) first or last name;
  - 282 (B) initials; or
  - 283 (C) unique identification in letters or numbers; and
- 284 (iv) with the number or letters on the unique identification badge being sufficiently  
285 large to be clearly visible and identifiable while engaging in or directly supervising the retail  
286 sale of beer.

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

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

- 290 (A) be available for immediate inspection by:
  - 291 (I) any peace officer; or
  - 292 (II) a representative of the local licensing authority; and
- 293 (B) include the employee's:
  - 294 (I) full name;
  - 295 (II) address; and
  - 296 (III) (Aa) driver license number; or
  - 297 (Bb) similar identification number.

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

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

- 303 (i) that individual:
  - 304 (A) completes an alcohol training and education seminar required by Subsection (1);

305 and

- 306 (B) after completing the alcohol training and education seminar required by Subsection

307 (1), is found in violation of any law involving the sale of an alcoholic beverage to a minor;  
308 (ii) the violation described in Subsection (4)(a)(i)(B) is based on conduct that occurs  
309 while the individual is on duty as an employee of an off-premise beer retailer licensee; and  
310 (iii) the local authority brings an adjudicative proceeding against the individual.  
311 (b) If the conditions of Subsection (4)(a) are met, a local authority shall impose the  
312 following administrative penalties:  
313 (i) upon a first violation, the individual may not sell or directly supervise the sale of  
314 beer to a customer for consumption off the premises of the off-premise beer retailer licensee  
315 until the individual retakes and completes an alcohol training and education seminar described  
316 in Section 62A-15-401;  
317 (ii) upon a second violation, the individual may not sell or directly supervise the sale of  
318 beer to a customer for consumption off the premises of the off-premise beer retailer licensee  
319 until the later of:  
320 (A) 90 days from the day on which the administrative penalty is imposed; and  
321 (B) the day on which the individual:  
322 (I) retakes and completes the alcohol training and education seminar described in  
323 Section 62A-15-401; and  
324 (II) completes any additional training that the local authority may require; and  
325 (iii) upon a third or subsequent violation, the individual may not sell or directly  
326 supervise the sale of beer to a customer for consumption off the premises of the off-premise  
327 beer retailer licensee until the later of:  
328 (A) one year from the day on which the administrative penalty is imposed; and  
329 (B) the day on which the individual:  
330 (I) retakes and completes an alcohol training and education seminar described in  
331 Section 62A-15-401; and  
332 (II) completes any additional training that the local authority may require.  
333 (c) (i) During the period of time an individual is prohibited from selling or directly  
334 supervising the sale of beer under Subsection (4)(b), an off-premise beer retailer licensee may  
335 not allow that individual to:  
336 (A) directly supervise the sale of beer for the off-premise beer retailer licensee; or  
337 (B) sell beer for the off-premise beer retailer licensee.

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

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

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

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

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

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

351 (i) upon a first violation, the off-premise beer retailer licensee shall be issued a written  
352 warning;

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

355 (iii) upon a third violation, the off-premise beer retailer licensee shall pay a civil fine of  
356 \$500;

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

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

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

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

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

366 (A) the off-premise beer retailer licensee's license to sell beer shall be revoked; and

367 (B) the off-premise beer retailer licensee is not eligible to reapply for a new license for  
368 at least six months from the date of revocation.

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

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

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

379 (i) maintain a record of the adjudicated violation until the record is expunged under  
380 Subsection (6)(c);

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

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

383 (B) the name of the off-premise beer retailer licensee for whom the individual was  
384 employed at the time of the violation; and

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

386 (iii) provide the Highway Safety Office of the Department of Public Safety within 30  
387 days of the date on which a violation is adjudicated the information described in Subsection  
388 (6)(a)(ii).

389 (b) (i) The Highway Safety Office shall develop and operate a system to collect,  
390 analyze, maintain, track, and disseminate the violation history information received under  
391 Subsection (6)(a).

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

393 (A) assist a local authority in assessing administrative penalties under Subsection (4);  
394 and

395 (B) inform an off-premise beer retailer licensee of an individual who has an  
396 administrative violation history under Subsection (4).

397 (iii) The Highway Safety Office shall maintain a record of violation history information  
398 received pursuant to Subsection (6)(a) until the record is expunged under Subsection (6)(c).

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

400 maintained under this Subsection (6) an administrative penalty imposed under Subsection (4)  
401 for purposes of determining future administrative penalties under Subsection (4) if the  
402 individual has not been found in violation of any law involving the sale of an alcoholic  
403 beverage to a minor for a period of 36 consecutive months from the day on which the  
404 individual is last adjudicated as violating a law involving the sale of an alcoholic beverage to a  
405 minor.

406 (ii) A local authority shall expunge from the records maintained by the local authority  
407 an administrative penalty imposed under Subsection (5) against an off-premise beer retailer  
408 licensee for purposes of determining future administrative penalties under Subsection (5) if the  
409 off-premise beer retailer licensee or any employee of that off-premise beer retailer licensee has  
410 not been found in violation of any law involving the sale of an alcoholic beverage to a minor  
411 for a period of 36 consecutive months from the day on which the off-premise beer retailer  
412 licensee or its employee is last adjudicated as violating a law involving the sale of an alcoholic  
413 beverage to a minor.

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

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

- 418 (i) notice of the hearing; and
- 419 (ii) an opportunity to be heard at the hearing.

420 (8) The Highway Safety Office of the Department of Public Safety shall administer a  
421 program to:

- 422 (a) reimburse a municipal or county law enforcement agency:
  - 423 (i) for the actual costs of an alcohol-related compliance check investigation conducted
  - 424 pursuant to Section 77-39-101 on the premises of an off-premise beer retailer;
  - 425 (ii) for any administrative costs associated with reporting the compliance check
  - 426 investigation described in Subsection (8)(a)(i);
  - 427 (iii) if the municipal or county law enforcement agency completes and submits to the
  - 428 Highway Safety Office a report within 90 days of the compliance check investigation described
  - 429 in Subsection (8)(a)(i) in a format required by the Highway Safety Office; and
  - 430 (iv) in the order that the municipal or county law enforcement agency submits the

431 report required by Subsection (8)(a)(iii) until the amount allocated by the Highway Safety  
 432 Office to reimburse a municipal or county law enforcement agency is spent;

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

435 (c) have the Highway Safety Office report to the Utah Substance Abuse [~~and~~  
 436 ~~Anti-Violence~~] ~~§~~→ [~~Coordinating~~] Advisory ←~~§~~ Council by no later than October 1 following a  
 436a fiscal year on the  
 437 following funded during the prior fiscal year:

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

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

441 Section 4. Section **63M-7-202** is amended to read:

442 **63M-7-202. Composition -- Appointments -- Ex officio members -- Terms -- U.S.**  
 443 **Attorney as nonvoting member.**

444 (1) The commission on criminal and juvenile justice shall be composed of 21 voting  
 445 members as follows:

446 (a) the chief justice of the supreme court, as the presiding officer of the judicial  
 447 council, or a judge designated by the chief justice;

448 (b) the state court administrator;

449 (c) the executive director of the Department of Corrections;

450 (d) the director of the Division of Juvenile Justice Services;

451 (e) the commissioner of the Department of Public Safety;

452 (f) the attorney general;

453 (g) the president of the chiefs of police association or a chief of police designated by  
 454 the association's president;

455 (h) the president of the sheriffs' association or a sheriff designated by the association's  
 456 president;

457 (i) the chair of the Board of Pardons and Parole or a member designated by the chair;

458 (j) the chair of the Utah Sentencing Commission;

459 (k) the chair of the Utah Substance Abuse [~~and Anti-Violence~~] ~~§~~→ [~~Coordinating~~] Advisory ←~~§~~  
 459a Council;

460 (l) the chair of the Utah Board of Juvenile Justice;

461 (m) the chair of the Utah Council on Victims of Crime or the chair's designee;

- 462 (n) the director of the Division of Substance Abuse and Mental Health; and  
 463 (o) the following members designated to serve four-year terms:  
 464 (i) a juvenile court judge, appointed by the chief justice, as presiding officer of the  
 465 Judicial Council;  
 466 (ii) a representative of the statewide association of public attorneys designated by the  
 467 association's officers;  
 468 (iii) one member of the House of Representatives who is appointed by the speaker of  
 469 the House of Representatives; and  
 470 (iv) one member of the Senate who is appointed by the president of the Senate.  
 471 (2) The governor shall appoint the remaining three members to four-year staggered  
 472 terms as follows:  
 473 (a) one criminal defense attorney appointed from a list of three nominees submitted by  
 474 the Utah State Bar Association;  
 475 (b) one representative of public education; and  
 476 (c) one citizen representative.  
 477 (3) In addition to the members designated under Subsections (1) and (2), the United  
 478 States Attorney for the district of Utah may serve as a nonvoting member.  
 479 (4) In appointing the members under Subsection (2), the governor shall take into  
 480 account the geographical makeup of the commission.  
 481 Section 5. Section **63M-7-301** is amended to read:  
 482 **63M-7-301. Definitions -- Creation of council -- Membership -- Terms.**  
 483 (1) (a) As used in this part, "council" means the Utah Substance Abuse [~~and~~  
 484 ~~Anti-Violence~~] ~~Ŝ→~~ [~~Coordinating~~] Advisory ~~←Ŝ~~ Council[;] created in this section.  
 485 (b) There is created within the governor's office the Utah Substance Abuse [~~and~~  
 486 ~~Anti-Violence~~] ~~Ŝ→~~ [~~Coordinating~~] Advisory ~~←Ŝ~~ Council.  
 487 (2) The council shall be comprised of [~~at least 26 voting members as follows~~] the  
 488 following voting members:  
 489 (a) the attorney general or the attorney general's designee;  
 490 (b) a county commissioner designated by the Utah Association of Counties;  
 491 (c) the commissioner of public safety or the commissioner's designee;  
 492 (d) the director of the Division of Substance Abuse and Mental Health or the director's

493 designee;

494 (e) the state superintendent of public instruction or the superintendent's designee;

495 (f) the director of the Department of Health or the director's designee;

496 (g) the executive director of the Commission on Criminal and Juvenile Justice or the  
497 executive director's designee;

498 (h) the governor or the governor's designee;

499 (i) the executive director of the Department of Corrections or the executive director's  
500 designee;

501 (j) the director of the Division of Juvenile Justice Services or the director's designee;

502 (k) the ~~[chair]~~ executive director of the private nonprofit Utah Domestic Violence  
503 [Advisory] Council or the ~~[chair's]~~ executive director's designee;

504 (l) the director of the Division of Indian Affairs or the director's designee;

505 (m) the state court administrator or the state court administrator's designee;

506 ~~[(m)]~~ (n) the following members designated to serve four-year terms:

507 (i) a member of the House of Representatives designated by the speaker of the House  
508 of Representatives;

509 (ii) a member of the Senate designated by the president of the Senate;

510 ~~[(iii) a member of the judiciary designated by the chief justice of the Utah Supreme~~  
511 ~~Court;]~~

512 ~~[(iv)]~~ (iii) a representative designated by the Utah League of Cities and Towns; and

513 ~~[(v)]~~ (iv) a representative from the ~~[offices of minority affairs]~~ Office of Ethnic Affairs  
514 within the Department of Community and Culture designated by the ~~[directors of those offices]~~  
515 director of the office or a designee;

516 ~~[(m)]~~ (o) the following members appointed by the governor to serve four-year terms:

517 (i) a representative of the Utah National Guard;

518 ~~[(ii) one resident of the state who has been personally affected by domestic violence;]~~

519 ~~[(iii) one resident of the state who has been personally affected by gang violence;]~~

520 ~~[(iv)]~~ (ii) one resident of the state who has been personally affected by alcohol or other  
521 drug abuse; and

522 ~~[(v)]~~ (iii) one citizen representative;

523 ~~[(o)]~~ (p) in addition to the voting members described in Subsections (2)(a) through (o).

524 the following voting members may be appointed by a majority of the members described in  
 525 Subsections (2)(a) through ~~[(n)]~~ (o) to serve four-year terms:

- 526 (i) a person knowledgeable in criminal justice issues;
- 527 (ii) a person knowledgeable in substance abuse treatment issues;
- 528 (iii) a person knowledgeable in substance abuse prevention issues; and
- 529 (iv) a person knowledgeable in judiciary issues; and

530 ~~[(p)]~~ (q) in addition to the voting members described in Subsections (2)(a) through  
 531 ~~[(o)]~~ (p), one or more chairs or co-chairs of a ~~[subcommittee]~~ committee established by the  
 532 council under Subsection 63M-7-302(5) may be appointed as a voting member by a majority of  
 533 the members described in Subsections (2)(a) through ~~[(o)]~~ (p).

534 (3) A person~~;~~ other than a person described in Subsection (2)~~;~~ may not be appointed  
 535 as a voting member of the council.

536 Section 6. Section **63M-7-302** is amended to read:

537 **63M-7-302. Chair -- Vacancies -- Quorum -- Expenses.**

538 (1) The Utah Substance Abuse ~~[and Anti-Violence]~~ ~~§~~→ **[Coordinating] Advisory** ←~~§~~  
 538a Council shall  
 539 annually select one of its members to serve as chair and one of its members to serve as vice  
 540 chair.

541 (2) When a vacancy occurs in the membership for any reason, the replacement shall be  
 542 appointed for the unexpired term in the same manner as the position was originally filled.

543 (3) A majority of the members of the council constitutes a quorum.

544 (4) (a) (i) ~~[Members who are]~~ A member who is not a government ~~[employees shall]~~  
 545 employee may not receive ~~[no]~~ compensation or benefits for ~~[their services]~~ the member's  
 546 service, but may receive per diem and expenses incurred in the performance of the member's  
 547 official duties at the rates established by the Division of Finance under Sections 63A-3-106 and  
 548 63A-3-107.

549 (ii) ~~[Members]~~ A member may decline to receive per diem and expenses for ~~[their]~~ the  
 550 member's service.

551 (b) (i) ~~[State]~~ A state government officer ~~[and]~~ or employee ~~[members]~~ member who  
 552 ~~[do]~~ does not receive salary, per diem, or expenses from ~~[their]~~ the agency the member  
 553 represents for ~~[their]~~ the member's service may receive per diem and expenses incurred in the  
 554 performance of ~~[their]~~ the member's official duties ~~[from the council]~~ at the rates established by

555 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

556 (ii) [State] A state government officer [and] or employee [members] member may  
557 decline to receive per diem and expenses for [their] the member's service.

558 (c) Legislators on the council shall receive compensation and expenses as provided by  
559 law and legislative rule.

560 (d) (i) [~~Local~~] A local government [members] member who [~~do~~] does not receive  
561 salary, per diem, or expenses from the entity that [they represent] the member represents for  
562 [their] the member's service may receive per diem and expenses incurred in the performance of  
563 [their] the member's official duties at the rates established by the Division of Finance under  
564 Sections 63A-3-106 and 63A-3-107.

565 (ii) [~~Local~~] A local government [members] member may decline to receive per diem  
566 and expenses for [their] the member's service.

567 ~~§→ (c) (i) A member who represents higher education and does not receive salary, per~~  
568 ~~diem, or expenses from the entity that the member represents for the member's service may~~  
569 ~~receive per diem and expenses incurred in the performance of the member's official duties at~~  
570 ~~the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.~~

571 ~~—— (ii) A member who represents higher education may decline to receive per diem and~~  
572 ~~expenses for the member's service.] ←§~~

573 (5) The council may establish [subcommittees] committees as needed to assist in  
574 accomplishing its duties under Section 63M-7-303.

575 Section 7. Section **63M-7-303** is amended to read:

576 **63M-7-303. Duties of council.**

577 (1) The Utah Substance Abuse [and Anti-Violence] ~~§→~~ [**Coordinating**] Advisory ~~←§~~  
577a Council shall:

578 (a) provide leadership and generate unity for Utah's ongoing efforts to combat  
579 substance abuse [~~and community violence~~];

580 (b) recommend and coordinate the creation, dissemination, and implementation of a  
581 statewide substance abuse [~~and anti-violence~~] policy;

582 (c) facilitate planning for a balanced continuum of substance abuse [~~and community~~  
583 ~~violence~~] prevention, treatment, and justice services;

584 (d) promote collaboration and mutually beneficial public and private partnerships;

585 (e) coordinate recommendations made by any [subcommittees] committee created

586 under Section 63M-7-302;

587 (f) analyze and provide an objective assessment of all proposed legislation concerning  
588 alcohol and other drug issues [~~and community violence issues~~]; and

589 (g) coordinate the implementation of Section 77-18-1.1 and related provisions in  
590 Subsections 77-18-1(5)(d) and (e), as provided in Section 63M-7-305.

591 (2) The council shall meet quarterly or more frequently as determined necessary by the  
592 chair.

593 (3) The council shall report its recommendations annually to the commission,  
594 governor, the Legislature, and the Judicial Council.

595 Section 8. Section **63M-7-304** is amended to read:

596 **63M-7-304. Chair -- Vacancies -- Quorum -- Expenses.**

597 (1) The members of each [~~subcommittee~~] committee established by the council shall  
598 annually select a chair or co-chairs from among the members of the [~~subcommittee~~] committee.

599 (2) When a vacancy occurs in the membership for any reason, the replacement shall be  
600 appointed for the unexpired term in the same manner as the position was originally filled.

601 (3) A majority of the members of a [~~subcommittee~~] committee constitutes a quorum for  
602 the transaction of business by the [~~subcommittee~~] committee.

603 (4) (a) (i) [~~Members who are~~] A member who is not a government [~~employees shall~~]  
604 employee may not receive [~~no~~] compensation or benefits for [~~their services~~] the member's  
605 service, but may receive per diem and expenses incurred in the performance of the member's  
606 official duties at the rates established by the Division of Finance under Sections 63A-3-106 and  
607 63A-3-107.

608 (ii) [~~Members~~] A member may decline to receive per diem and expenses for [~~their~~] the  
609 member's service.

610 (b) (i) [~~State~~] A state government officer [~~and~~] or employee [~~members~~] member who  
611 [~~do~~] does not receive salary, per diem, or expenses from [~~their~~] the agency the member  
612 represents for [~~their~~] the member's service may receive per diem and expenses incurred in the  
613 performance of [~~their~~] the member's official duties [~~from the committee~~] at the rates  
614 established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

615 (ii) [~~State~~] A state government officer [~~and~~] or employee [~~members~~] member may  
616 decline to receive per diem and expenses for [~~their~~] the member's service.

617 (c) Legislators on the [~~subcommittee~~] committee shall receive compensation and  
 618 expenses as provided by law and legislative rule.

619 [~~(d) Members from higher education may not receive per diem or expenses for their~~  
 620 ~~service.]~~

621 [~~(e)~~] (d) (i) [~~Local~~] A local government [~~members~~] member who [~~do~~] does not receive  
 622 salary, per diem, or expenses from the entity that [~~they represent~~] the member represents for  
 623 [~~their~~] the member's service may receive per diem and expenses incurred in the performance of  
 624 [~~their~~] the member's official duties at the rates established by the Division of Finance under  
 625 Sections 63A-3-106 and 63A-3-107.

626 (ii) [~~Local~~] A local government [~~members~~] member may decline to receive per diem  
 627 and expenses for [~~their~~] the member's service.

628 **§→** [~~(e) (i) A member who represents higher education and who does not receive salary, per~~  
 629 ~~diem, or expenses from the entity that the member represents for the member's service may~~  
 630 ~~receive per diem and expenses incurred in the performance of the member's official duties at~~  
 631 ~~the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.~~

632 ~~—— (ii) A member who represents higher education may decline to receive per diem and~~  
 633 ~~expenses for the member's service.]~~ **←§**

634 Section 9. Section **63M-7-305** is amended to read:

635 **63M-7-305. Drug Offender Reform Act -- Coordination.**

636 (1) As used in this section:

637 (a) "Council" means the Utah Substance Abuse [~~and Anti-Violence~~] **§→** [**Coordinating**]

637a **Advisory** **←§**

638 Council.

639 (b) "Drug Offender Reform Act" and "act" mean the screening, assessment, substance  
 640 abuse treatment, and supervision provided to convicted offenders under Subsection  
 641 77-18-1.1(2) to:

642 (i) determine offenders' specific substance abuse treatment needs as early as possible in  
 643 the judicial process;

644 (ii) expand treatment resources for offenders in the community;

645 (iii) integrate treatment of offenders with supervision by the Department of  
 646 Corrections; and

647 (iv) reduce the incidence of substance abuse and related criminal conduct.

648 (c) "Substance abuse authority" has the same meaning as in Section 17-43-201.

649 (2) The council shall provide ongoing oversight of the implementation, functions, and  
650 evaluation of the Drug Offender Reform Act.

651 (3) The council shall develop an implementation plan for the Drug Offender Reform  
652 Act. The plan shall:

653 (a) identify local substance abuse authority areas where the act will be implemented, in  
654 cooperation with the Division of Substance Abuse and Mental Health, the Department of  
655 Corrections, and the local substance abuse authorities;

656 (b) include guidelines on how funds appropriated under the act should be used;

657 (c) require that treatment plans under the act are appropriate for criminal offenders;

658 (d) include guidelines on the membership of local planning groups;

659 (e) include guidelines on the membership of the Department of Corrections' planning  
660 group under Subsection (5); and

661 (f) provide guidelines for the Commission on Criminal and Juvenile Justice to conduct  
662 an evaluation of the implementation, impact, and results of the act.

663 (4) (a) Each local substance abuse authority designated under Subsection (3) to  
664 implement the act shall establish a local planning group and shall submit a plan to the council  
665 detailing how the authority proposes to use the act funds. The uses shall be in accordance with  
666 the guidelines established by the council under Subsection (3).

667 (b) Upon approval of the plan by the council, the ~~Department of Human Services~~  
668 Division of Substance Abuse and Mental Health shall allocate the funds.

669 (c) Local substance abuse authorities shall annually, on or before October 1, submit to  
670 the ~~Department of Human Services~~ Division of Substance Abuse and Mental Health and to  
671 the council reports detailing use of the funds and the impact and results of the use of the funds  
672 during the prior fiscal year ending June 30.

673 (5) (a) The Department of Corrections shall establish a planning group and shall submit  
674 a plan to the council detailing how the department proposes to use the act funds. The uses shall  
675 be in accordance with the guidelines established by the council under Subsection (3).

676 (b) The Department of Corrections shall annually, on or before October 1, submit to  
677 the council a report detailing use of the funds and the impact and results of the use of the funds  
678 during the prior fiscal year ending June 30.

679 (6) The council shall monitor the progress and evaluation of the act and shall provide a  
680 written report on the implementation, impact, and results of the act to the Law Enforcement  
681 and Criminal Justice and the Health and Human Services legislative interim committees  
682 annually on or before November [±] 30.

683 Section 10. Section **63M-7-306** is amended to read:

684 **63M-7-306. Staffing.**

685 The Commission on Criminal and Juvenile Justice shall provide staff to the council and  
686 any [subcommittees] committee established by the council.

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**Legislative Review Note**

as of 2-2-10 5:54 PM

**Office of Legislative Research and General Counsel**

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**Fiscal Note****S.B. 141 - Utah Substance Abuse and Anti-violence Coordinating Council  
Amendments**

2010 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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