

ALCOHOLIC BEVERAGE CONTROL ACT AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor: John L. Valentine

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act to address issues related to the regulation of alcoholic products.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ requires that money be appropriated by the Legislature or provided by statute for the department to draw from the Liquor Control Fund or the Markup Holding Fund with limited exceptions;
- ▶ clarifies who makes warrants on the funds;
- ▶ provides for Division of Finance to make year-end closing entries; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

32B-2-301, as last amended by Laws of Utah 2012, Chapter 357



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

29 Section 1. Section **32B-2-301** is amended to read:

30 **32B-2-301. State property -- Liquor Control Fund -- Markup Holding Fund.**

31 (1) The following are property of the state:

32 (a) the money received in the administration of this title, except as otherwise provided;

33 and

34 (b) property acquired, administered, possessed, or received by the department.

35 (2) (a) There is created an enterprise fund known as the "Liquor Control Fund."

36 (b) Except as provided in Sections 32B-3-205 and 32B-2-304, money received in the
37 administration of this title shall be transferred to the Liquor Control Fund.

38 (3) (a) There is created an enterprise fund known as the "Markup Holding Fund."

39 (b) In accordance with Section 32B-2-304, the State Tax Commission shall deposit
40 revenue remitted to the State Tax Commission from the markup imposed under Section
41 32B-2-304 into the Markup Holding Fund.

42 (c) Money deposited into the Markup Holding Fund may be expended:

43 (i) to the extent appropriated by the Legislature; and

44 (ii) to fund the deposits required by Subsection 32B-2-304(4) and Subsection
45 32B-2-305(4).

46 (4) (a) ~~[The state treasurer]~~ Subject to Subsection (4)(b), the department shall by
47 warrant draw from the Liquor Control Fund and ~~[, to the extent appropriated by the~~
48 ~~Legislature,]~~ from the Markup Holding Fund ~~[:]~~ the expenses, debts, and liabilities incurred by
49 the department in connection with the administration of this title or any other expense
50 necessary for the administration of this title ~~[: including:]~~.

51 ~~[(a) salaries;]~~

52 ~~[(b) premiums, if any, on a bond for which the department pays premiums; and]~~

53 ~~[(c) an expenditure incurred in establishing, operating, or maintaining a state store or~~
54 ~~package agency.]~~

55 (b) The department may draw from the Liquor Control Fund or the Markup Holding
56 Fund only to the extent appropriated by the Legislature or provided for by statute, except that
57 the department may draw by warrant without an appropriation from the Liquor Control Fund or
58 Markup Holding Fund for an expenditure that is directly incurred by the department:

59 (i) to purchase an alcoholic product;
60 (ii) to transport an alcoholic product from the supplier to a warehouse of the
61 department; and
62 (iii) for variances related to an alcoholic product.
63 (5) The department shall transfer annually from the Liquor Control Fund and the State
64 Tax Commission shall transfer annually from the Markup Holding Fund to the General Fund a
65 sum equal to the amount of net profit earned from the sale of liquor since the preceding transfer
66 of money under this Subsection (5). The transfers shall be calculated by no later than
67 September 1 and made by no later than September 30 after a fiscal year. The Division of
68 Finance may make year-end closing entries in the Liquor Control Fund and the Markup
69 Holding Fund in order to comply with Subsection 51-5-6(2).
70 (6) (a) By the end of each day, the department shall:
71 (i) make a deposit to a qualified depository, as defined in Section 51-7-3; and
72 (ii) report the deposit to the state treasurer.
73 (b) A commissioner or department employee is not personally liable for a loss caused
74 by the default or failure of a qualified depository.
75 (c) Money deposited in a qualified depository is entitled to the same priority of
76 payment as other public funds of the state.
77 (7) If the cash balance of the Liquor Control Fund is not adequate to cover a warrant
78 drawn against the Liquor Control Fund by the [~~state treasurer~~] department, the cash resources
79 of the General Fund may be used to the extent necessary. At no time may the fund equity of
80 the Liquor Control Fund fall below zero.

Legislative Review Note
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Office of Legislative Research and General Counsel