

selected statutes regarding the  
**Alcoholic Beverage Control Commission**

(Statutory text is current through the 2016 General Session)

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**32B-2-201. Alcoholic Beverage Control Commission created.**

- (1) There is created the "Alcoholic Beverage Control Commission." The commission is the governing board over the department.
- (2)
  - (a) The commission is composed of seven part-time commissioners appointed by the governor with the consent of the Senate.
  - (b) No more than four commissioners may be of the same political party.
- (3)
  - (a) Except as required by Subsection (3)(b), as terms of commissioners expire, the governor shall appoint each new commissioner or reappointed commissioner to a four-year term.
  - (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of no more than three commissioners expire in a fiscal year.
- (4)
  - (a) When a vacancy occurs on the commission for any reason, the governor shall appoint a replacement for the unexpired term with the consent of the Senate.
  - (b) Unless removed in accordance with Subsection (6), a commissioner shall remain on the commission after the expiration of a term until a successor is appointed by the governor, with the consent of the Senate.
- (5) A commissioner shall take the oath of office.
- (6)
  - (a) The governor may remove a commissioner from the commission for cause, neglect of duty, inefficiency, or malfeasance after a public hearing conducted by:
    - (i) the governor; or
    - (ii) an impartial hearing examiner appointed by the governor to conduct the hearing.
  - (b) At least 10 days before the hearing described in Subsection (6)(a), the governor shall provide the commissioner notice of:
    - (i) the date, time, and place of the hearing; and
    - (ii) the alleged grounds for the removal.
  - (c) The commissioner shall have an opportunity to:

- (i) attend the hearing;
  - (ii) present witnesses and other evidence; and
  - (iii) confront and cross examine witnesses.
- (d) After a hearing under this Subsection (6):
  - (i) the person conducting the hearing shall prepare written findings of fact and conclusions of law; and
  - (ii) the governor shall serve a copy of the prepared findings and conclusions upon the commissioner.
- (e) If a hearing under this Subsection (6) is held before a hearing examiner, the hearing examiner shall issue a written recommendation to the governor in addition to complying with Subsection (6)(d).
- (f) A commissioner has five days from the day on which the commissioner receives the findings and conclusions described in Subsection (6)(d) to file written objections to the recommendation before the governor issues a final order.
- (g) The governor shall:
  - (i) issue the final order under this Subsection (6) in writing; and
  - (ii) serve the final order upon the commissioner.
- (7) A commissioner may not receive compensation or benefits for the commissioner's service, but may receive per diem and travel expenses in accordance with:
  - (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and
  - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (8) (a) The governor shall annually appoint the chair of the commission. A commissioner serves as chair to the commission at the pleasure of the governor. If removed as chair, the commissioner continues to serve as a commissioner unless removed as a commissioner under Subsection (6).
- (b) The commission shall elect:
  - (i) another commissioner to serve as vice chair; and
  - (ii) other commission officers as the commission considers advisable.
- (c) A commissioner elected under Subsection (8)(b) shall serve in the office to which the commissioner is elected at the pleasure of the commission.
- (9) (a) Each commissioner has equal voting rights on a commission matter when in attendance at a commission meeting.
- (b) Four commissioners is a quorum for conducting commission business.

- (c) A majority vote of the quorum present at a meeting is required for the commission to act.
- (10) (a) The commission shall meet at least monthly, but may hold other meetings at times and places as scheduled by:
  - (i) the commission;
  - (ii) the chair; or
  - (iii) three commissioners upon filing a written request for a meeting with the chair.
- (b) Notice of the time and place of a commission meeting shall be given to each commissioner, and to the public in compliance with Title 52, Chapter 4, Open and Public Meetings Act. A commission meeting is open to the public, except for a commission meeting or portion of a commission meeting that is closed by the commission as authorized by Sections 52-4-204 and 52-4-205.

**32B-2-201.5. Commission subcommittee -- Chair's oversight responsibilities.**

- (1) There is created within the commission two subcommittees consisting of members of the commission and known as the:
  - (a) "Compliance, Licensing, and Enforcement Subcommittee"; and
  - (b) "Operations and Procurement Subcommittee."
- (2) A subcommittee shall have four members, including the chair of the commission. The chair of the commission shall appoint the members to a subcommittee.
- (3) The director shall consult with the chair of the commission over:
  - (a) the internal affairs of the department; and
  - (b) subject to Section 32B-2-207, hiring and firing of upper management of the department.
- (4) The commission by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall establish the duties of the subcommittees created under this section.

**32B-2-202. Powers and duties of the commission.**

- (1) The commission shall:
  - (a) consistent with the policy established by the Legislature by statute, act as a general policymaking body on the subject of alcoholic product control;
  - (b) adopt and issue policies, rules, and procedures;
  - (c) set policy by written rules that establish criteria and procedures for:
    - (i) issuing, denying, not renewing, suspending, or revoking a package agency, license, permit, or certificate of approval; and

- (ii) determining the location of a state store, package agency, or retail licensee;
- (d) decide within the limits, and under the conditions imposed by this title, the number and location of state stores, package agencies, and retail licensees in the state;
- (e) issue, deny, suspend, revoke, or not renew the following package agencies, licenses, permits, or certificates of approval for the purchase, storage, sale, offer for sale, furnishing, consumption, manufacture, and distribution of an alcoholic product:
  - (i) a package agency;
  - (ii) a full-service restaurant license;
  - (iii) a master full-service restaurant license;
  - (iv) a limited-service restaurant license;
  - (v) a master limited-service restaurant license;
  - (vi) a club license;
  - (vii) an airport lounge license;
  - (viii) an on-premise banquet license;
  - (ix) a resort license, under which at least four or more sublicenses may be included;
  - (x) an on-premise beer retailer license;
  - (xi) a reception center license;
  - (xii) a beer-only restaurant license;
  - (xiii) a hotel license, under which at least three or more sublicenses may be included;
  - (xiv) subject to Subsection (4), a single event permit;
  - (xv) subject to Subsection (4), a temporary beer event permit;
  - (xvi) a special use permit;
  - (xvii) a manufacturing license;
  - (xviii) a liquor warehousing license;
  - (xix) a beer wholesaling license; and
  - (xx) one of the following that holds a certificate of approval:
    - (A) an out-of-state brewer;
    - (B) an out-of-state importer of beer, heavy beer, or flavored malt beverages; and
    - (C) an out-of-state supplier of beer, heavy beer, or flavored malt beverages;

- (f) in accordance with Section 32B-5-205, issue, deny, suspend, or revoke conditional licenses for the purchase, storage, sale, furnishing, consumption, manufacture, and distribution of an alcoholic product;
  - (g) prescribe the duties of the department in assisting the commission in issuing a package agency, license, permit, or certificate of approval under this title;
  - (h) to the extent a fee is not specified in this title, establish a fee allowed under this title in accordance with Section 63J-1-504;
  - (i) fix prices at which liquor is sold that are the same at all state stores, package agencies, and retail licensees;
  - (j) issue and distribute price lists showing the price to be paid by a purchaser for each class, variety, or brand of liquor kept for sale by the department;
  - (k)
    - (i) require the director to follow sound management principles; and
    - (ii) require periodic reporting from the director to ensure that:
      - (A) sound management principles are being followed; and
      - (B) policies established by the commission are being observed;
  - (l)
    - (i) receive, consider, and act in a timely manner upon the reports, recommendations, and matters submitted by the director to the commission; and
    - (ii) do the things necessary to support the department in properly performing the department's duties;
  - (m) obtain temporarily and for special purposes the services of an expert or person engaged in the practice of a profession, or a person who possesses a needed skill if:
    - (i) considered expedient; and
    - (ii) approved by the governor;
  - (n) prescribe the conduct, management, and equipment of premises upon which an alcoholic product may be stored, sold, offered for sale, furnished, or consumed;
  - (o) make rules governing the credit terms of beer sales within the state to retail licensees; and
  - (p) in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, take disciplinary action against a person subject to administrative action.
- (2) Consistent with the policy established by the Legislature by statute, the power of the commission to do the following is plenary, except as otherwise provided by this title, and not subject to review:
- (a) establish a state store;
  - (b) issue authority to act as a package agent or operate a package agency; and

- (c) issue or deny a license, permit, or certificate of approval.
- (3) If the commission is authorized or required to make a rule under this title, the commission shall make the rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (4) Notwithstanding Subsections (1)(e)(xiv) and (xv), the director or deputy director may issue an event permit in accordance with Chapter 9, Event Permit Act.