

selected statutes regarding the  
**Director of Department of Alcoholic Beverage Control**

(Statutory text is current through the 2016 General Session)

- 32B-2-203. Department of Alcoholic Beverage Control created.**
  - 32B-2-204. Powers and duties of the department -- Immunity.**
  - 32B-2-205. Director of alcoholic beverage control.**
  - 32B-2-206. Powers and duties of the director.**
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**32B-2-203. Department of Alcoholic Beverage Control created.**

- (1) There is created the Department of Alcoholic Beverage Control. The department is governed by the commission.
- (2) The director of alcoholic beverage control appointed under Section 32B-2-205 shall administer the department.
- (3) The director shall allocate the duties within the department into the divisions, bureaus, sections, offices, and committees as the director considers necessary for the administration of this title.
- (4) The department shall cooperate with any other recognized agency in the administration of this title and in the enforcement of a policy or rule of the commission or policy of the director.

**32B-2-204. Powers and duties of the department -- Immunity.**

- (1) The department shall control liquor merchandise inventory including:
  - (a) listing and delisting a product;
  - (b) the procedures for testing a new product;
  - (c) purchasing policy;
  - (d) turnover requirements for a regularly coded product to be continued; and
  - (e) the disposition of discontinued, distressed, or unsaleable merchandise.
- (2) (a) The department shall report to the governor on the administration of this title:
  - (i) as the governor may require; and
  - (ii) annually by no later than November 30, for the fiscal year ending June 30 of the year in which the report is made.
- (b) A report under this Subsection (2) shall contain:
  - (i) a statement of the nature and amount of the business transacted by the department during the year;

- (ii) a statement of the department's assets and liabilities including a profit and loss account, and other accounts and matters necessary to show the results of operations of the department for the year;
    - (iii) general information on the application of this title in the state; and
    - (iv) any other information requested by the governor.
  - (c) The department shall submit a copy of a report described in this Subsection (2) to the Legislature.
- (3) The department shall maintain insurance against loss on each motor vehicle operated by it on any public highway. A motor vehicle shall be covered for:
- (a) liability imposed by law upon the department for damages from bodily injuries suffered by one or more persons by reason of the ownership, maintenance, or use of the motor vehicle; and
  - (b) liability or loss from damage to or destruction of property of any description, including liability of the department for the resultant loss of use of the property, which results from accident due to the ownership, maintenance, or use of the motor vehicle.
- (4) (a) The department may sue, be sued, and defend in a proceeding, in a court of law or otherwise, in the name of the department.
- (b) An action may not be taken:
- (i) against the commission; or
  - (ii) in the name of a commissioner.
- (5) The department is liable to respond in damages in a case if a private corporation under the same circumstances would be liable.
- (6) (a) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies in an action commenced against the department for damages sustained as a result of department ownership, maintenance, or use of a motor vehicle under Subsections (4) and (5).
- (b) In an action described in Subsection (6)(a), the commission and each commissioner are immune from suit.

**32B-2-205. Director of alcoholic beverage control.**

- (1) (a) In accordance with Subsection (1)(b), the governor, with the consent of the Senate, shall appoint a director of alcoholic beverage control to a four-year term. The director may be appointed to more than one four-year term. The director is the administrative head of the department.
- (b) (i) The governor shall appoint the director from nominations made by the commission.

- (ii) The commission shall submit the nomination of three individuals to the governor for appointment of the director.
  - (iii) By no later than 30 calendar days from the day on which the governor receives the three nominations submitted by the commission, the governor may:
    - (A) appoint the director; or
    - (B) reject the three nominations.
  - (iv) If the governor rejects the nominations or fails to take action within the 30-day period, the commission shall nominate three different individuals from which the governor may appoint the director or reject the nominations until such time as the governor appoints the director.
  - (v) The governor may reappoint the director without seeking nominations from the commission. Reappointment of a director is subject to the consent of the Senate.
- (c) If there is a vacancy in the position of director, during the nomination process described in Subsection (1)(b), the governor may appoint an interim director for a period of up to 30 calendar days. If a director is not appointed within the 30-day period, the interim director may continue to serve beyond the 30-day period subject to the consent of the Senate at the next scheduled time for the Senate giving consent to appointments of the governor. Except that if the Senate does not act on the consent to the appointment of the interim director within 60 days of the end of the initial 30-day period, the interim director may continue as the interim director.
- (d) The director may be terminated by:
- (i) the commission by a vote of four commissioners; or
  - (ii) the governor after consultation with the commission.
- (e) The director may not be a commissioner.
- (f) The director shall:
- (i) be qualified in administration;
  - (ii) be knowledgeable by experience and training in the field of business management; and
  - (iii) possess any other qualification prescribed by the commission.
- (2) The governor shall establish the director's compensation within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.
- (3) The director shall:
- (a) carry out the policies of the commission;
  - (b) carry out the policies of the department;

- (c) fully inform the commission of the operations and administrative activities of the department; and
- (d) assist the commission in the proper discharge of the commission's duties.

**32B-2-206. Powers and duties of the director.**

Subject to the powers and responsibilities of the commission under this title, the director:

- (1)
  - (a) shall prepare and propose to the commission general policies, rules, and procedures governing the administrative activities of the department; and
  - (b) may submit other recommendations to the commission as the director considers in the interest of the commission's or the department's business;
- (2) within the general policies, rules, and procedures of the commission, shall:
  - (a) provide day-to-day direction, coordination, and delegation of responsibilities in the administrative activities of the department's business; and
  - (b) make internal department policies and procedures relating to:
    - (i) department personnel matters; and
    - (ii) the day-to-day operation of the department;
- (3) subject to Section 32B-2-207, shall appoint or employ personnel as considered necessary in the administration of this title, and with regard to the personnel shall:
  - (a) prescribe the conditions of employment;
  - (b) define the respective duties and powers; and
  - (c) fix the remuneration in accordance with Title 67, Chapter 19, Utah State Personnel Management Act;
- (4) shall establish and secure adherence to a system of reports, controls, and performance in matters relating to personnel, security, department property management, and operation of:
  - (a) a department office;
  - (b) a warehouse;
  - (c) a state store; and
  - (d) a package agency;
- (5) within the policies, rules, and procedures approved by the commission and provisions of law, shall purchase, store, keep for sale, sell, import, and control the storage, sale, furnishing, transportation, or delivery of an alcoholic product;
- (6) shall prepare for commission approval:
  - (a) recommendations regarding the location, establishment, relocation, and closure of a state store or package agency;
  - (b) recommendations regarding the issuance, denial, nonrenewal, suspension, or revocation of a license, permit, or certificate of approval;

- (c) an annual budget, proposed legislation, and reports as required by law and sound business principles;
  - (d) plans for reorganizing divisions of the department and the functions of the divisions;
  - (e) manuals containing commission and department policies, rules, and procedures;
  - (f) an inventory control system;
  - (g) any other report or recommendation requested by the commission;
  - (h) rules described in Subsection 32B-2-202(1)(o) governing the credit terms of the sale of beer;
  - (i) rules governing the calibration, maintenance, and regulation of a calibrated metered dispensing system;
  - (j) rules governing the display of a list of types and brand names of liquor furnished through a calibrated metered dispensing system;
  - (k) price lists issued and distributed showing the price to be paid for each class, variety, or brand of liquor kept for sale at a state store, package agency, or retail licensee;
  - (l) policies or rules prescribing the books of account maintained by the department and by a state store, package agency, or retail licensee; and
  - (m) a policy prescribing the manner of giving and serving a notice required by this title or rules made under this title;
- (7) shall make available through the department to any person, upon request, a copy of a policy made by the director;
  - (8) shall make and maintain a current copy of a manual that contains the rules and policies of the commission and department available for public inspection;
  - (9)
    - (a) after consultation with the governor, shall determine whether an alcoholic product should not be sold, offered for sale, or otherwise furnished in an area of the state during a period of emergency that is proclaimed by the governor to exist in that area; and
    - (b) shall issue a necessary public announcement or policy with respect to the determination described in Subsection (9)(a);
  - (10) issue event permits in accordance with Chapter 9, Event Permit Act; and
  - (11) shall perform any other duty required by the commission or by law.