

32B-2-304 Liquor price -- School lunch program -- Remittance of markup.

- (1) For purposes of this section:
 - (a)
 - (i) "Landed case cost" means:
 - (A) the cost of the product; and
 - (B) inbound shipping costs incurred by the department.
 - (ii) "Landed case cost" does not include the outbound shipping cost from a warehouse of the department to a state store.
 - (b) "Proof gallon" has the same meaning as in 26 U.S.C. Sec. 5002.
 - (c) Notwithstanding Section 32B-1-102, "small brewer" means a brewer who manufactures in a calendar year less than 40,000 barrels of beer, heavy beer, and flavored malt beverage.
- (2) Except as provided in Subsection (3):
 - (a) spirituous liquor sold by the department within the state shall be marked up in an amount not less than 86% above the landed case cost to the department;
 - (b) wine sold by the department within the state shall be marked up in an amount not less than 86% above the landed case cost to the department;
 - (c) heavy beer sold by the department within the state shall be marked up in an amount not less than 64.5% above the landed case cost to the department; and
 - (d) a flavored malt beverage sold by the department within the state shall be marked up in an amount not less than 86% above the landed case cost to the department.
- (3)
 - (a) Liquor sold by the department to a military installation in Utah shall be marked up in an amount not less than 15% above the landed case cost to the department.
 - (b) Except for spirituous liquor sold by the department to a military installation in Utah, spirituous liquor that is sold by the department within the state shall be marked up 47% above the landed case cost to the department if:
 - (i) the spirituous liquor is manufactured by a manufacturer producing less than 30,000 proof gallons of spirituous liquor in a calendar year; and
 - (ii) the manufacturer applies to the department for a reduced markup.
 - (c) Except for wine sold by the department to a military installation in Utah, wine that is sold by the department within the state shall be marked up 47% above the landed case cost to the department if:
 - (i) the wine is manufactured by a manufacturer producing less than 20,000 gallons of wine in a calendar year; and
 - (ii) the manufacturer applies to the department for a reduced markup.
 - (d) Except for heavy beer sold by the department to a military installation in Utah, heavy beer that is sold by the department within the state shall be marked up 30% above the landed case cost to the department if:
 - (i) a small brewer manufactures the heavy beer; and
 - (ii) the small brewer applies to the department for a reduced markup.
 - (e) The department shall verify an amount described in Subsection (3)(b), (c), or (d) pursuant to a federal or other verifiable production report.
- (4) The department shall deposit 10% of the total gross revenue from sales of liquor with the state treasurer to be credited to the Uniform School Fund and used to support the school lunch program administered by the State Board of Education under Section 53A-19-201.
- (5) This section does not prohibit the department from selling discontinued items at a discount.
- (6)

- (a) The department shall collect the markup and remit the markup collected by the department under this section:
 - (i) to the State Tax Commission monthly on or before the last day of the month immediately following the last day of the previous month; and
 - (ii) using a form prescribed by the State Tax Commission.
- (b) For liquor provided to a package agency on consignment, the department shall remit the markup to the State Tax Commission for the month during which the liquor is provided to the package agency regardless of when the package agency pays the department for the liquor provided to the package agency.
- (c) The State Tax Commission shall deposit revenues remitted to it under Subsection (6)(a) into the Markup Holding Fund created in Section 32B-2-301.
- (d) The assessment, collection, and refund of a markup under this section shall be in accordance with Title 59, Chapter 1, Part 14, Assessment, Collections, and Refunds Act.
- (e) The department, if it fails to comply with this Subsection (6), is subject to penalties as provided in Section 59-1-401 and interest as provided in Section 59-1-402.
- (f) The State Tax Commission may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish procedures under this Subsection (6).

Amended by Chapter 357, 2012 General Session