

Representative Nora B. Stephens proposes to substitute the following bill:

**SUBSTANCE ABUSE PREVENTION,
ENFORCEMENT, AND TREATMENT FUNDING**

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Nora B. Stephens

AN ACT RELATING TO REVENUE AND TAXATION; INCREASING THE BEER TAX;
CREATING THE ALCOHOL AND OTHER DRUG ENFORCEMENT, PREVENTION, AND
TREATMENT FUND; PROVIDING FOR DISTRIBUTION OF TAXES AND LIQUOR
PROFITS; CREATING THE ALCOHOL AND OTHER DRUG ENFORCEMENT,
PREVENTION, AND TREATMENT FUND SUBCOMMITTEE; MAKING TECHNICAL
CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

32A-1-113, as last amended by Chapter 169, Laws of Utah 1997

32A-1-115, as last amended by Chapter 301, Laws of Utah 1993

59-15-101, as last amended by Chapters 30 and 66, Laws of Utah 1992

ENACTS:

53-1-118, Utah Code Annotated 1953

63-25a-208, Utah Code Annotated 1953

REPEALS:

59-15-109, as renumbered and amended by Chapter 2, Laws of Utah 1987

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

Section 1. Section **32A-1-113** is amended to read:

**32A-1-113. Department expenditures and revenues -- Liquor Control Fund --
Exempt from Division of Finance -- Annual audits.**

1 (1) (a) All money received by the department in the administration of this title, except as
2 otherwise provided, together with all property acquired, administered, possessed, or received by
3 the department, is the property of the state. Money received in the administration of this title shall
4 be paid to the department and transferred into the state treasury to the credit of the Liquor Control
5 Fund.

6 (b) All expenses, debts, and liabilities incurred by the department in connection with the
7 administration of this title shall be paid from the Liquor Control Fund.

8 (c) (i) The fiscal officers of the department shall transfer annually from the Liquor Control
9 Fund [~~to the General Fund~~] a sum equal to the amount of net profit earned from the sale of liquor
10 since the preceding transfer of funds as follows:

11 (A) net profits less than or equal to \$26,500,000 shall be deposited to the General Fund;

12 and

13 (B) net profits in excess of \$26,500,000 shall be deposited as follows:

14 (I) two-thirds into the General Fund; and

15 (II) one-third into the Alcohol and Other Drug Enforcement, Prevention, and Treatment
16 Fund created by Section 53-1-118.

17 (ii) The transfer required by Subsection (1)(c)(i) shall be made within [90] 120 days of the
18 end of the department's fiscal year on June 30.

19 (2) (a) Deposits made by the department shall be made to banks designated as state
20 depositories and reported to the state treasurer at the end of each day.

21 (b) Any member of the commission and any employee of the department is not personally
22 liable for any loss caused by the default or failure of depositories.

23 (c) All funds deposited in any bank or trust company are entitled to the same priority of
24 payment as other public funds of the state.

25 (3) All expenditures necessary for the administration of this title, including the following,
26 shall be paid by warrants drawn on the state treasurer paid out of the Liquor Control Fund:

27 (a) the payment of all salaries[;];

28 (b) premiums, if any, on bonds of the commissioners, the director, and the department staff
29 in all cases where bonds are required[;]; and

30 (c) all other expenditures incurred in establishing, operating, and maintaining state stores
31 and package agencies [~~and in the administration of this title, shall be paid by warrants drawn on~~

1 the state treasurer paid out of the Liquor Control Fund].

2 (4) (a) If the cash balance of the Liquor Control Fund is not adequate to cover the warrants
3 drawn against it by the state treasurer, the cash resources of the General Fund may be [utilized]
4 used to the extent necessary. [~~However, at no time may]~~

5 (b) Notwithstanding Subsection (4)(a), the fund equity of the Liquor Control Fund may
6 not fall below zero.

7 (5) When any check issued in payment of any fees or costs authorized or required by this
8 title is returned to the department as dishonored, the department may assess a service charge in an
9 amount set by commission rule against the person on whose behalf the check was tendered.

10 (6) The laws that govern the Division of Finance and prescribe the general powers and
11 duties of the Division of Finance are not applicable to the department [~~of Alcoholic Beverage~~
12 ~~Control~~] in the purchase and sale of alcoholic products.

13 (7) (a) The accounts of the department shall be audited annually by the state auditor or by
14 any other person, firm, or corporation the state auditor appoints.

15 (b) The audit report shall be made to the state auditor, and copies submitted to members
16 of the Legislature and the council not later than January 1 following the close of the fiscal year for
17 which the report is made.

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

19 **32A-1-115. Appropriation from the General Fund to cities, towns, and counties for**
20 **law enforcement and rehabilitation -- Distribution to cities, towns, and counties.**

21 (1) (a) The Legislature shall [~~provide an appropriation from the General Fund from liquor~~
22 ~~control profits to cities, towns, and counties and]~~ annually appropriate to cities, towns, and
23 counties an amount not to exceed \$4,350,000 from the revenues in the General Fund generated by:

24 (i) liquor control profits; and

25 (ii) proceeds of the beer excise tax [under] deposited in the General Fund in accordance
26 with Section 59-15-101 [in an amount not exceeding \$4,350,000].

27 (b) (i) The appropriation under Subsection (1)(a) shall be used exclusively for programs
28 or projects related to prevention, detection, prosecution, and control of violations of this title and
29 other alcohol-related offenses except as provided in Subsection (1)(b)(ii).

30 (ii) The portion distributed under this section to counties [~~shall]~~ may also be used for the
31 confinement or rehabilitation, and construction and maintenance of facilities for confinement or

1 rehabilitation, of persons arrested for or convicted of alcohol-related offenses.

2 (iii) Any city, town, or county entitled to receive funds shall use the funds exclusively as
3 required by this Subsection (1)(b).

4 (c) The appropriation provided for under Subsection (1)(a) is intended to supplement the
5 budget of the law enforcement agencies of each city, town, and county within the state to enable
6 the cities, towns, and counties to more effectively enforce the liquor laws of the state and
7 alcohol-related offenses. The appropriation is not intended to replace funds that would otherwise
8 be allocated for law enforcement and confinement or rehabilitation or both, of persons arrested for
9 or convicted of alcohol-related offenses.

10 (2) The [amount of \$4,350,000] appropriation provided for in Subsection (1)(a) shall be
11 distributed to cities, towns, and counties on the following basis:

12 (a) 25% to cities, towns, and counties based upon the percentage of the state population
13 located in each city, town, and county;

14 (b) 30% to cities, towns, and counties based upon each city, town, and county's percentage
15 of the statewide convictions for all alcohol-related offenses;

16 (c) 20% to cities, towns, and counties based upon the percentage of all state stores,
17 package agencies, liquor licensees, and beer licensees in the state which are located in each city,
18 town, and county; and

19 (d) 25% to the counties for confinement and rehabilitation and confinement and
20 rehabilitation facilities purposes authorized in this section based upon the percentage of the state
21 population located in each county.

22 (3) (a) To determine the amount of the 30% due each city, town, and county based on
23 convictions described in Subsection (2)(b), the State Tax Commission semiannually shall:

24 [(a)] (i) double the total number of convictions in the state obtained between July 1, 1982,
25 and June 30, 1983, and during the same period in succeeding years for violation of Section
26 41-6-44, or an ordinance that complies with the requirements of Subsection 41-6-43(1) or Section
27 76-5-207, and to that number, add the number of convictions obtained during the same period for
28 all other alcohol-related offenses;

29 [(b)] (ii) divide the figure equal to the 30% due each city, town, and county by the sum
30 obtained in Subsection (3)(a)(i), to obtain the quotient for alcohol-related offenses statewide; and

31 [(c)] (iii) multiply the quotient obtained in Subsection [(b)] (3)(a)(ii), by the number of

1 convictions obtained in each city, town, and county between July 1, 1982 and June 30, 1983, and
2 for the same period in succeeding years, for violation of Section 41-6-44, or an ordinance that
3 complies with the requirements of Subsection 41-6-43(1) or Section 76-5-207, and for all other
4 alcohol-related offenses to determine the total revenue due each entity, based on convictions.

5 (b) The number of convictions for purposes of [this] Subsection (3)(a)(iii) shall be
6 determined in the manner prescribed in Subsection (3)(a)(i).

7 (4) For purposes of this section, the number of state stores, package agencies, and licensees
8 located:

9 (a) within the limits of each city, town, and county is the number determined by the
10 department to be so located, and includes all private clubs, restaurants, airport lounges, package
11 agencies, and state stores, but not on-premise beer retailer licensees~~[- For purposes of this section,~~
12 ~~the number of state stores, package agencies, and licensees]; and~~

13 (b) in a county consists only of that number located within unincorporated areas of the
14 county.

15 (5) (a) Population figures, for the purposes of this section, shall be determined according
16 to the last decennial census taken by the United States Department of Commerce, or its five-year
17 update, whichever is more recent.

18 (b) If population estimates are not made for any county, city, or town by the United States
19 Bureau of Census, population figures shall be determined according to the biennial estimate from
20 the Utah Population Estimates Committee.

21 (c) A county's population figure for the 25% distribution to cities, towns, and counties
22 shall be determined only with reference to the population in the unincorporated areas of the
23 county~~[- and a]~~.

24 (d) A county's population figure for the 25% distribution to counties only shall be
25 determined with reference to the total population in the county, including that of cities and towns.

26 (6) (a) For purposes of this section, a conviction occurs in the city, town, or county that
27 actually prosecutes the offense to judgment. In the case of a conviction based upon a guilty plea,
28 the city, town, or county that, except for the guilty plea, would have prosecuted the offense is
29 entitled to credit for the conviction.

30 (b) For purposes of this section, "alcohol-related offense" means:

31 (i) a violation of:

1 (A) Section 41-6-44~~[,or]~~;

2 (B) an ordinance that complies with the requirements of Subsection 41-6-43(1); or

3 (C) Section 76-5-207~~[,]~~; or

4 (ii) an offense involving the illegal sale, distribution, transportation, possession, or
5 consumption of alcohol.

6 (7) Payments under this section shall be made semiannually to each city, town, and county.

7 (8) (a) The state court administrator, not later than September 1 each year, shall certify to
8 the State Tax Commission the number of convictions in each city, town, or county in the state
9 during the period specified in Subsection (3)(a)(i) and for the same period each succeeding year
10 obtained for:

11 (i) violation of:

12 (A) Section 41-6-44~~[,]~~;

13 (B) an ordinance that complies with the requirements of Subsection 41-6-43(1)~~[,]~~; or

14 (C) Section 76-5-207~~[,]~~; and [for]

15 (ii) other alcohol-related offenses [~~in each city, town, or county in the state during the~~
16 ~~period specified in Subsection (3)(a), and for the same period each succeeding year]~~.

17 (b) The State Tax Commission shall prepare forms for use by cities, towns, and counties
18 in applying for revenues. The forms may require the submission of information the State Tax
19 Commission considers necessary to enable it to comply with this section.

20 (9) A city, town, or county that receives any monies under this section during a fiscal year
21 shall report to the Utah Substance Abuse and Anti-Violence Coordinating Council created in
22 Section 63-25a-201 by no later than October 1 following the fiscal year:

23 (a) the programs or projects of the city, town, or county that receive monies under this
24 section;

25 (b) indicators of whether the programs or projects that receive monies under this section
26 are effective;

27 (c) if any monies received under this section were not expended by the city, town, or
28 county; and

29 (d) the amount expended by the budget of the law enforcement of the city, town, and
30 county on the programs or projects described in Subsection (9)(a).

31 Section 3. Section **53-1-118** is enacted to read:

53-1-118. Alcohol and Other Drug Enforcement, Prevention, and Treatment Fund.

(1) For purposes of this section:

(a) "agency" means any department, division, commission, council, board, bureau, committee, institution, government corporation, or other establishment of this state or a political subdivision of this state and includes a state institution of higher education;

(b) "council subcommittee" means the Alcohol and Other Drug Enforcement, Prevention, and Treatment Fund Subcommittee of the Utah Substance Abuse and Anti-Violence Coordinating Council created in Section 63-25a-208; and

(c) "fund" means the restricted account created in Subsection (2) called the Alcohol and Other Drug Enforcement, Prevention, and Treatment Fund.

(2) There is created a restricted account in the General Fund called the "Alcohol and Other Drug Enforcement, Prevention, and Treatment Fund" to be administered by the department in accordance with this section.

(3) (a) The fund consists of monies from the following revenue sources:

(i) monies generated from the beer excise tax and deposited into the fund in accordance with Section 59-15-101;

(ii) monies from the Liquor Control Fund deposited into the fund in accordance with Section 32A-1-113; and

(iii) appropriations made to the fund by the Legislature.

(b) If the monies received in the fund under Subsection (3)(a)(i) ~~is~~ [or] AND ~~is~~ (3)(a)(ii) exceeds \$10,000,000 in a fiscal year, the monies in excess of \$10,000,000 shall be transferred to the General Fund.

(4) (a) The fund shall earn interest.

(b) All interest earned on fund monies shall be deposited into the fund.

(5) (a) The department shall distribute the monies appropriated by the Legislature from the fund in accordance with the directions of the council subcommittee under Subsection (6).

(b) Notwithstanding Subsection (5)(a), the department may use appropriated fund monies for the administration of the fund without the council subcommittee specifically directing use of fund monies, but this amount may not exceed 2% of the annual receipts of the fund.

(6) (a) The council subcommittee shall direct the department to distribute any fund monies to be distributed during that fiscal year specifying for each agency that is to receive fund monies:

- 1 (i) the amount of monies to be distributed to the agency;
- 2 (ii) the purposes for which the agency can use the monies; and
- 3 (iii) any restrictions or conditions imposed on the receipt of monies.
- 4 (b) The council subcommittee may not direct the department to distribute fund monies:
- 5 (i) in excess of the monies held in the fund or in excess of the amount appropriated under
- 6 Subsection (5); or
- 7 (ii) for any purpose not listed in Subsection (6)(c).
- 8 (c) Fund monies may be distributed or expended only for the following purposes:
- 9 (i) enforcement of laws pertaining to driving under the influence of alcohol and other
- 10 drugs including:
- 11 (A) personnel costs;
- 12 (B) training;
- 13 (C) equipment and technology; and
- 14 (D) toxicology lab services;
- 15 (ii) enforcement of laws related to the illegal sale, distribution, transportation, possession,
- 16 or consumption of alcohol;
- 17 (iii) data gathering associated with prescription drug abuse;
- 18 (iv) adjudication of alcohol and other drug related offenses through the judicial system;
- 19 (v) alcohol and other drug related education, prevention, and treatment services;
- 20 (vi) alcohol and other drug related violence prevention and treatment programs; and
- 21 (vii) costs associated with the administration of the fund in accordance with Subsection
- 22 (5)(b).
- 23 (7) The council subcommittee shall:
- 24 (a) establish procedures for determining:
- 25 (i) which agencies should receive monies; and
- 26 (ii) if any conditions or restrictions should be imposed for receipt of fund monies;
- 27 (b) coordinate programs funded in part with fund monies with other programs funded by
- 28 federal, state, and local government entities;
- 29 (c) direct the department to distribute monies from the fund so that the majority of the
- 30 monies distributed from the fund each year are distributed to an agency for use in alcohol related
- 31 activities and services described in Subsection (6); and

1 (d) in deciding which agencies should receive monies under this section during a fiscal
 2 year:

3 (i) give priority to programs that:

4 (A) received monies from the fund in previous years; and

5 (B) have fiscal needs that require multi-year funding; and

6 (ii) consider whether the agency is in compliance with Subsection (8).

7 (8) An agency that receives monies distributed under this section:

8 (a) shall use the monies to supplement the budget of the agencies to enable the agencies
 9 to accomplish the activities listed in Subsection (6)(c); and

10 (b) may not use the monies to replace funds that would otherwise be allocated by the
 11 agencies for the basic funding of the activities listed in Subsection (6)(c).

12 Section 4. Section **59-15-101** is amended to read:

13 **59-15-101. Tax basis -- Rate.**

14 (1) [A] (a) Beginning on July 1, 1998, a tax is imposed at the rate of [H+] \$16 per
 15 31-gallon barrel on all beer, as defined in Section 32A-1-105, which is imported or manufactured
 16 for sale, use, or distribution in this state. [This]

17 (b) The tax imposed under Subsection (1)(a):

18 (i) is imposed at a proportionate rate for any other quantity or for the fractional parts of
 19 a barrel; and

20 (ii) may not be imposed more than once on the same beer.

21 (2) [A] Notwithstanding Subsection (1), a tax may not be levied or imposed on beer;

22 (a) sold to the United States and its agencies[, nor shall any tax be imposed on beer]; or

23 (b) manufactured or imported for sale, use, or distribution outside the state and exported
 24 from the state.

25 (3) (a) On or before June 30, 1998, all monies generated by the taxes imposed by this
 26 chapter shall be paid by the commission to the state treasurer daily for deposit into the General
 27 Fund.

28 (b) On or after July 1, 1998, all monies generated by the taxes imposed by this chapter
 29 shall be paid by the commission to the state treasurer daily for deposit as follows:

30 (i) the revenues generated by that portion of the tax equal to \$11 per 31-gallon barrel shall
 31 be deposited into the General Fund; and

1 (ii) the revenues generated by that portion of the tax equal to \$5 per 31-gallon barrel shall
2 be deposited into the Alcohol and Other Drug Enforcement, Prevention, and Treatment Fund.

3 Section 5. Section **63-25a-208** is enacted to read:

4 **63-25a-208. Alcohol and Other Drug Enforcement, Prevention, and Treatment Fund**
5 **Subcommittee.**

6 (1) For purposes of this section:

7 (a) "council" means the Utah Substance Abuse and Anti-Violence Coordinating Council
8 created under Section 63-25a-201; and

9 (b) "subcommittee" means the Alcohol and Other Drug Enforcement, Prevention, and
10 Treatment Fund Subcommittee.

11 (2) (a) There is created within the council a subcommittee called the "Alcohol and Other
12 Drug Enforcement, Prevention, and Treatment Fund Subcommittee."

13 (b) The subcommittee shall consist of all voting members of the council except the
14 members appointed under Subsections 63-25a-201(2)(a),(b), and (c).

15 (c) The subcommittee shall annually select one of its members to serve as chair.

16 (d) A majority of the members of the subcommittee constitutes a quorum for the
17 transaction of business by the subcommittee. The action of a majority of a quorum constitutes the
18 action of the subcommittee.

19 (e) The members of the subcommittee shall receive compensation or benefits in
20 accordance with Subsection 63-25a-205(4).

21 (3) The subcommittee shall perform the duties described for the subcommittee in Section
22 53-1-118.

23 Section 6. **Repealer.**

24 This act repeals:

25 Section **59-15-109, Tax moneys to be paid to state treasurer.**

26 Section 7. **Effective date.**

27 This act takes effect on July 1, 1998.