

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

3 1998 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Nora B. Stephens**

6 AN ACT RELATING TO REVENUE AND TAXATION; INCREASING THE BEER TAX;
7 CREATING THE ALCOHOL AND OTHER DRUG ENFORCEMENT, PREVENTION, AND
8 TREATMENT FUND; APPROPRIATING \$4,350,000 ANNUALLY FROM THE GENERAL
9 FUND TO THE ALCOHOL AND OTHER DRUG ENFORCEMENT, PREVENTION, AND
10 TREATMENT FUND; PROVIDING FOR DISTRIBUTION OF TAXES AND LIQUOR
11 PROFITS; CREATING THE ALCOHOL AND OTHER DRUG ENFORCEMENT,
12 PREVENTION, AND TREATMENT FUND SUBCOMMITTEE; MAKING TECHNICAL
13 CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.

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

15 AMENDS:

16 **32A-1-113**, as last amended by Chapter 169, Laws of Utah 1997

17 **32A-1-115**, as last amended by Chapter 301, Laws of Utah 1993

18 **59-15-101**, as last amended by Chapters 30 and 66, Laws of Utah 1992

19 ENACTS:

20 **53-1-118**, Utah Code Annotated 1953

21 **63-25a-208**, Utah Code Annotated 1953

22 REPEALS:

23 **59-15-109**, as renumbered and amended by Chapter 2, Laws of Utah 1987

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

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

26 **32A-1-113. Department expenditures and revenues -- Liquor Control Fund --**
27 **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 \$24,000,000 shall be deposited to the General Fund;
12 and

13 (B) net profits in excess of \$24,000,000 shall be deposited into the Alcohol and Other
14 Drug Enforcement, Prevention, and Treatment Fund created by Section 53-1-118.

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

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

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

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

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

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

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

28 (c) all other expenditures incurred in establishing, operating, and maintaining state stores
29 and package agencies [~~and in the administration of this title, shall be paid by warrants drawn on~~
30 the state treasurer paid out of the Liquor Control Fund].

31 (4) (a) If the cash balance of the Liquor Control Fund is not adequate to cover the warrants

1 drawn against it by the state treasurer, the cash resources of the General Fund may be [utilized]
2 used to the extent necessary. [~~However, at no time may~~]

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

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

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

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

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

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

17 **32A-1-115. Appropriation from the General Fund to the Alcohol and Other Drug**
18 **Enforcement, Prevention, and Treatment Fund for law enforcement and rehabilitation --**
19 **Distribution to cities, towns, and counties.**

20 (1) (a) The Legislature shall [~~provide an appropriation from the General Fund from liquor~~
21 ~~control profits to cities, towns, and counties and~~] annually appropriate \$4,350,000 to the Alcohol
22 and Other Drug Enforcement, Prevention, and Treatment Fund from the revenues in the General
23 Fund generated by:

24 (i) liquor control profits; and

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

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

31 (ii) The portion distributed under this section to counties [~~shall~~] may also be used for the

1 confinement or rehabilitation, and construction and maintenance of facilities for confinement or
2 rehabilitation, of persons arrested for or convicted of alcohol-related offenses.

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

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

12 (2) The [amount of \$4,350,000] appropriation to the Alcohol and Other Drug Enforcement,
13 Prevention, and Treatment Fund provided for in Subsection (1)(a) shall be distributed to cities,
14 towns, and counties on the following basis:

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

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

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

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

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

27 [(a)] (i) double the total number of convictions in the state obtained between July 1, 1982,
28 and June 30, 1983, and during the same period in succeeding years for violation of Section
29 41-6-44, or an ordinance that complies with the requirements of Subsection 41-6-43(1) or Section
30 76-5-207, and to that number, add the number of convictions obtained during the same period for
31 all other alcohol-related offenses;

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

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

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

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

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

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

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

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

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

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

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

1 entitled to credit for the conviction.

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

3 (i) a violation of:

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

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

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

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

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

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

14 (i) violation of:

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

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

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

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

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

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

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

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

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

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

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

4 **53-1-118. Special revenue fund.**

5 (1) For purposes of this section:

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

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

12 (c) "fund" means the Alcohol and Other Drug Enforcement, Prevention, and Treatment
13 Fund created by this section.

14 (2) There is created a special revenue fund called the "Alcohol and Other Drug
15 Enforcement, Prevention, and Treatment Fund" to be administered by the department in
16 accordance with this section.

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

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

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

22 (c) the appropriation made to the fund by the Legislature under Section 32A-1-115; and

23 (d) other appropriations made to the fund by the Legislature.

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

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

26 (5) (a) Notwithstanding Section 63-38-3, the department may distribute monies in the fund
27 in a manner consistent with this section without the Legislature appropriating the monies from the
28 fund to the department.

29 (b) The department shall distribute the monies in the fund in accordance with the
30 directions of the council subcommittee under Subsection (7).

31 (c) Notwithstanding Subsection (5)(b), the department may use fund monies for the

1 administration of the fund without the council subcommittee specifically directing use of fund
2 monies, but this amount may not exceed 2% of the annual receipts of the fund.

3 (6) (a) Beginning in 1999, on or before September 30, the department shall submit to the
4 governor and the Office of the Legislative Fiscal Analyst an annual report on the fund stating:

5 (i) the amount of monies deposited in the fund during the previous fiscal year;

6 (ii) the amount of monies in the fund that shall be distributed in accordance with this
7 section for that fiscal year;

8 (iii) which agencies will receive monies from the fund during that fiscal year; and

9 (iv) for what purposes each agency receiving monies from the fund will use the monies.

10 (b) The Office of the Legislative Fiscal Analyst shall deliver this annual report to the
11 Legislature as part of the appropriations process.

12 (c) Beginning with fiscal year 1999-2000, the state auditor shall biannually audit the fund
13 for compliance with this section.

14 (7) (a) By no later than November 1 of each fiscal year, the council subcommittee shall
15 direct the department to distribute any fund monies to be distributed during that fiscal year
16 specifying for each agency that is to receive fund monies:

17 (i) the amount of monies to be distributed to the agency;

18 (ii) the purposes for which the agency can use the monies; and

19 (iii) any restrictions or conditions imposed on the receipt of monies.

20 (b) The council subcommittee may not direct the department to distribute fund monies:

21 (i) in excess of the monies held in the fund as of the date the council subcommittee directs
22 the department to distribute fund monies; or

23 (ii) for any purpose not listed in Subsection (7)(c).

24 (c) Fund monies may be distributed or expended only for the following purposes:

25 (i) enforcement of laws pertaining to driving under the influence of alcohol and other
26 drugs including:

27 (A) personnel costs;

28 (B) training;

29 (C) equipment and technology; and

30 (D) toxicology lab services;

31 (ii) enforcement of laws related to the illegal sale, distribution, transportation, possession,

1 or consumption of alcohol;

2 (iii) data gathering associated with prescription drug abuse;

3 (iv) adjudication of alcohol and other drug related offenses through the judicial system;

4 (v) alcohol and other drug related education, prevention, and treatment services;

5 (vi) alcohol and other drug related violence prevention and treatment programs; and

6 (vii) costs associated with the administration of the fund in accordance with Subsection

7 (5)(c).

8 (8) The council subcommittee shall:

9 (a) establish procedures for determining:

10 (i) which agencies should receive monies; and

11 (ii) if any conditions or restrictions should be imposed for receipt of fund monies;

12 (b) coordinate programs funded in part with fund monies with other programs funded by
13 federal, state, and local government entities;

14 (c) direct the department to distribute monies from the fund so that the majority of the
15 monies distributed from the fund each year are distributed to an agency for use in alcohol related
16 activities and services described in Subsection (7); and

17 (d) in deciding which agencies should receive monies under this section during a fiscal
18 year, give priority to programs that:

19 (i) received monies from the fund in previous years; and

20 (ii) have fiscal needs that require multi-year funding.

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

22 **59-15-101. Tax basis -- Rate.**

23 (1) [A] (a) Beginning on July 1, 1998, a tax is imposed at the rate of [H] \$16 per

24 31-gallon barrel on all beer, as defined in Section 32A-1-105, which is imported or manufactured
25 for sale, use, or distribution in this state. [This]

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

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

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

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

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

1 **(b)** manufactured or imported for sale, use, or distribution outside the state and exported
2 from the state.

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

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

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

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

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

13 **63-25a-208. Alcohol and Other Drug Enforcement, Prevention, and Treatment Fund**
14 **Subcommittee.**

15 **(1)** For purposes of this section:

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

18 **(b)** "subcommittee" means the Alcohol and Other Drug Enforcement, Prevention, and
19 Treatment Fund Subcommittee.

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

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

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

25 **(d)** A majority of the members of the subcommittee constitutes a quorum for the
26 transaction of business by the subcommittee. The action of a majority of a quorum constitutes the
27 action of the subcommittee.

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

30 **(3)** The subcommittee shall perform the duties described for the subcommittee in Section
31 53-1-118.

- 1 Section 6. **Repealer.**
- 2 This act repeals:
- 3 Section **59-15-109, Tax moneys to be paid to state treasurer.**
- 4 Section 7. **Effective date.**
- 5 This act takes effect on July 1, 1998.

Legislative Review Note
as of 11-26-97 1:17 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel