

**FUNDING FORMULA FOR ALCOHOL RELATED
ACTIVITIES OF LOCAL GOVERNMENTS**

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Michael G. Waddoups

This act modifies the Alcoholic Beverage Control Code to modify the requirement that the Legislature appropriate monies to be used by counties and municipalities for specified purposes related to alcohol. The act also modifies how the monies are distributed. The act provides a mechanism to suspend payments if it is found that a municipality or county is not using the monies for the specified purposes.

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

AMENDS:

32A-1-115, as last amended by Chapter 318, Laws of Utah 2000

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

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

32A-1-115. Appropriation from the General Fund to municipalities and counties for law enforcement and treatment -- Distribution to municipalities and counties.

(1) As used in this section:

(a) "Alcohol-related offense" means:

(i) a violation of:

(A) Section 41-6-44; or

(B) an ordinance that complies with the requirements of:

(I) Subsection 41-6-43(1); or

(II) Section 76-5-207; or

(ii) an offense involving the:

(A) illegal sale of alcohol;

(B) illegal distribution of alcohol;

(C) illegal transportation of alcohol;

(D) illegal possession of alcohol; or

(E) illegal consumption of alcohol.

(b) "Annual conviction time period" means the time period that:

(i) begins on July 1 and ends on June 30; and

(ii) immediately precedes the fiscal year for which an appropriation under this section is made.

(c) "Coordinating council" means the Utah Substance Abuse and Anti-Violence Coordinating Council created in Section 63-25a-201.

(d) "Municipality" means:

(i) a city; or

(ii) a town.

[~~(1)~~] (2) (a) (i) [~~The~~] Beginning with fiscal year 2007-08 and except as provided in Subsection (2)(a)(iii), the Legislature shall annually appropriate from the General Fund to municipalities and counties an amount not [~~to exceed \$4,350,000 from the revenues in the General Fund generated by~~] less than the greater of:

[~~(i) liquor control profits; and~~]

[~~(ii)~~] (A) 40% of the proceeds of the beer excise tax deposited in the General Fund;

(I) in accordance with Section 59-15-109[~~;~~]; and

(II) for the fiscal year two years preceding the fiscal year of the appropriation; or

(B) \$4,350,000.

(ii) For fiscal years 2003-04 through 2006-07 and except as provided in Subsection (2)(a)(iii), the Legislature shall appropriate an amount not to exceed the following amounts from the proceeds of the beer excise tax deposited in the General Fund in accordance with Section 59-15-109 to municipalities and counties:

(A) for fiscal year 2003-04, \$3,044,000;

(B) for fiscal year 2004-05, \$3,479,000;

(C) for fiscal year 2005-06, \$3,914,000; and

(D) for fiscal year 2006-07, \$4,350,000.

(iii) Notwithstanding Subsection (2)(a)(i) or (ii), if the proceeds of the beer excise tax

deposited in the General Fund in accordance with Section 59-15-109 are less than the amount required to be appropriated under this Subsection (2)(a), the Legislature shall appropriate to municipalities and counties an amount equal to the beer excise tax deposited in the General Fund during the fiscal year two years preceding the fiscal year of the appropriation.

(iv) (A) The State Tax Commission shall notify the entities described in Subsection (2)(a)(iv)(B) not later than the September 1 preceding the fiscal year of the appropriation of:

(I) the amount of the proceeds of the beer excise tax deposited in the General Fund in accordance with Section 59-15-109 for the fiscal year two years preceding the fiscal year of the appropriation; and

(II) an amount equal to 40% of the amount listed in Subsection (2)(a)(iv)(A)(I).

(B) The notification required by Subsection (2)(a)(iv)(A) shall be sent to:

(I) the Governor's Office of Planning and Budget; and

(II) Legislative Fiscal Analyst.

(b) (i) The ~~[appropriation]~~ appropriations under Subsection ~~[(+)]~~ (2)(a) shall be used exclusively for programs or projects related to prevention, treatment, detection, prosecution, and control of violations of this title and other offenses in which alcohol is a contributing factor except as provided in Subsection ~~[(+)]~~ (2)(b)(ii).

(ii) The portion distributed under this section to counties may also be used for the confinement or treatment of persons arrested for or convicted of offenses in which alcohol is a contributing factor.

(iii) Any municipality or county entitled to receive funds shall use the funds exclusively as required by this Subsection ~~[(+)]~~ (2)(b).

(c) The ~~[appropriation]~~ appropriations provided for under Subsection ~~[(+)]~~ (2)(a) ~~[is]~~ are intended to supplement the budget of the appropriate agencies of each municipality and county within the state to enable the municipalities and counties to more effectively fund the programs and projects described under Subsection ~~[(+)]~~ (2)(b). The ~~[appropriation is]~~ appropriations are not intended to replace funds that would otherwise be allocated for those programs and projects.

~~[(2)]~~ (3) (a) The ~~[appropriation]~~ appropriations provided for in Subsection ~~[(+)]~~ (2)(a) shall

be distributed to municipalities and counties on the following basis:

~~[(a)]~~ (i) 25% to municipalities and counties based upon the percentage of the state population residing in each municipality and county;

~~[(b)]~~ (ii) 30% to municipalities and counties based upon each ~~[municipality]~~ municipality's and county's percentage of the statewide convictions for all alcohol-related offenses;

~~[(c)]~~ (iii) 20% to municipalities and counties based upon the percentage of all state stores, package agencies, liquor licensees, and beer licensees in the state ~~[which]~~ that are located in each municipality and county; and

~~[(d)]~~ (iv) 25% to the counties for confinement and treatment purposes authorized ~~[in]~~ by this section based upon the percentage of the state population located in each county.

(b) (i) Except as provided in Subsection (3)(b)(iii), a municipality that does not have a law enforcement agency may not receive monies under this section.

(ii) The State Tax Commission:

(A) may not distribute the monies the municipality would receive but for the municipality not having a law enforcement agency to that municipality; and

(B) shall distribute the monies that the municipality would have received but for it not having a law enforcement agency to the county in which the municipality is located for use by the county in accordance with this section.

(iii) Notwithstanding Subsections (3)(b)(i) and (ii), if the coordinating council finds that a municipality described in Subsection (3)(b)(i) demonstrates that the municipality can use the monies that the municipality is otherwise eligible to receive in accordance with this section, the coordinating council may direct the State Tax Commission to distribute the money to the municipality.

~~[(3)]~~ (4) To determine the ~~[amount of the 30% due each municipality and county based on convictions described in]~~ distributions required by Subsection ~~[(2)(b)]~~ (3)(a)(ii), the State Tax Commission ~~[semiannually]~~ shall annually:

(a) ~~[double]~~ for an annual conviction time period:

(i) multiply by two the total number of convictions in the state obtained [between July 1, 1982, and June 30, 1983, and] during the [same] annual conviction time period [in succeeding years]

for violation of:

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

(B) an ordinance that complies with the requirements of Subsection 41-6-43(1) or Section 76-5-207[~~, and to that number,~~]; and

(ii) add to the number calculated under Subsection (4)(a)(i) the number of convictions obtained during the [same] annual conviction time period for all [other] alcohol-related offenses other than the alcohol-related offenses described in Subsection (4)(a)(i);

(b) divide [the figure] an amount equal to [the] 30% ~~[due each municipality and county]~~ of the appropriation for that fiscal year by the sum obtained in Subsection ~~[(3)] (4)(a)~~[~~, to obtain the quotient for alcohol-related offenses statewide~~]; and

(c) multiply the ~~[quotient obtained in]~~ amount calculated under Subsection ~~[(3)(b)] (4)(b)~~, by the number of convictions obtained in each municipality and county ~~[between July 1, 1982 and June 30, 1983, and for the same period in succeeding years,]~~ during the annual conviction time period for ~~[violation of Section 41-6-44, or an ordinance that complies with the requirements of Subsection 41-6-43(1) or Section 76-5-207, and for all other]~~ alcohol-related offenses ~~[to determine the total revenue due each entity, based on convictions]~~. ~~[The number of convictions for purposes of this Subsection (3) shall be determined in the manner prescribed in Subsection (3)(a).]~~

~~[(4)] (5)~~ For purposes of this section[;];

(a) the number of state stores, package agencies, and licensees located within the limits of each municipality and county:

(i) is the number determined by the department to be so located[~~, and~~];

(ii) includes all:

(A) private clubs[;];

(B) restaurants[;];

(C) airport lounges[;];

(D) package agencies[;]; and

(E) state stores[~~, but~~]; and

(iii) does not include on-premise beer retailer licensees[~~, For purposes of this section,~~];

(b) the number of state stores, package agencies, and licensees in a county consists only of that number located within unincorporated areas of the county~~[- (5) (a) Population];~~

(c) population figures~~[- for the purposes of this section,]~~ shall be determined according to the most current population estimates prepared by the Utah Population Estimates Committee~~[-];~~

~~[(b) A]~~ (d) a county's population figure for the 25% distribution to municipalities and counties under Subsection (3)(a)(i) shall be determined only with reference to the population in the unincorporated areas of the county~~[- and];~~

(e) a county's population figure under Subsection (3)(a)(iv) for the 25% distribution to counties only shall be determined with reference to the total population in the county, including that of municipalities~~[-];~~

~~[(6) (a) For purposes of this section,]~~

(f) a conviction occurs in the municipality or county that actually prosecutes the offense to judgment~~[- In]; and~~

(g) in the case of a conviction based upon a guilty plea, the conviction is considered to occur in the municipality or county that, except for the guilty plea, would have prosecuted the offense [is entitled to credit for the conviction].

~~[(b) For purposes of this section, "alcohol-related offense" means a violation of Section 41-6-44, or an ordinance that complies with the requirements of Subsection 41-6-43(1) or Section 76-5-207, or an offense involving the illegal sale, distribution, transportation, possession, or consumption of alcohol.]~~

~~[(7) Except as provided in Subsection (9), payments under this section shall be made semiannually to each municipality and county.]~~

~~[(8) (a) The state court administrator,]~~

(6) By not later than September 1 each year~~[-];~~

(a) the state court administrator shall certify to the State Tax Commission the number of convictions obtained for [violation of Section 41-6-44, an ordinance that complies with the requirements of Subsection 41-6-43(1), or Section 76-5-207, and for other] alcohol-related offenses in each municipality or county in the state during the annual conviction time period [specified in

Subsection (3)(a), and for the same period each succeeding year.]; and

(b) the coordinating council shall notify the State Tax Commission of any municipality that does not have a law enforcement agency.

(7) By not later than December 1 of each year, the coordinating council shall notify the State Tax Commission for the fiscal year of appropriation of:

(a) any municipality that may receive a distribution under Subsection (3)(b)(iii);

(b) any county that may receive a distribution allocated to a municipality described in Subsection (3)(b)(ii);

(c) any municipality or county that may not receive a distribution because the coordinating council has suspended the payment under Subsection (10)(a)(i); and

(d) any municipality or county that receives a distribution because the suspension of payment has been cancelled under Subsection (10)(a)(ii).

(8) (a) By not later than January 1 of the fiscal year of appropriation, the State Tax Commission shall annually distribute to each municipality and county the portion of the appropriation that the municipality or county is eligible to receive under this section, except for any municipality or county that the coordinating council notifies the State Tax Commission in accordance with Subsection (7) may not receive a distribution in that fiscal year.

(b) (i) The State Tax Commission shall prepare forms for use by municipalities and counties in applying for [revenues] distributions under this section.

(ii) The forms described in this Subsection (8) may require the submission of information the State Tax Commission considers necessary to enable [it] the State Tax Commission to comply with this section.

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

(a) report to the coordinating council:

[(a)] (i) the programs or projects of the municipality or county that receive monies under this section;

~~[(b)]~~ (ii) if the monies for programs or projects were exclusively used as required by Subsection ~~[(+)]~~ (2)(b);

~~[(c)]~~ (iii) indicators of whether the programs or projects that receive monies under this section are effective;

~~[(+)]~~ (iv) if any monies received under this section were not expended by the municipality or county; and

~~[(c)]~~ (b) ~~[a signature of]~~ provide the coordinating council a statement signed by the chief executive officer of the county or municipality attesting that the monies received under this section were used in addition to any monies appropriated or otherwise available for the ~~[local government's]~~ county's or municipality's law enforcement and were not used to supplant those monies.

(10) (a) The ~~[Utah Substance Abuse and Anti-Violence]~~ coordinating council may, by a majority vote:

(i) suspend future payments under Subsection ~~[(7)]~~ (8) to a municipality or county that: (A) does not file a report that meets the requirements of Subsection (9); ~~[and] or~~ (B) the coordinating council finds does not use the monies as required by Subsection (2)(b) on the basis of the report filed by the municipality or county under Subsection (9); and

(ii) cancel ~~[the]~~ a suspension under Subsection (10)(a)(i).

(b) The State Tax Commission shall:

(i) retain monies that a municipality or county does not receive under Subsection (10)(a);
and

(ii) notify the ~~[Utah Substance Abuse and Anti-Violence]~~ coordinating council of the balance of retained monies under this Subsection (10)(b) after ~~[each semiannual payment]~~ the annual distribution under Subsection ~~[(7)]~~ (8).

~~[(c)] The Utah Substance Abuse and Anti-Violence]~~

(11) (a) Subject to the requirements of this Subsection (11), the coordinating council shall award the balance of retained monies under Subsection (10)(b):

(i) as prioritized by majority vote of the coordinating council; and

(ii) as grants to ~~[any]~~:

(A) a county [or];

(B) a municipality; or [to]

(C) the Department of Public Safety[, as prioritized by a majority vote].

[(d) The Utah Substance Abuse and Anti-Violence]

(b) By not later than May 30 of the fiscal year of the appropriation, the coordinating council shall notify the State Tax Commission of any [changes under Subsection (10)(a) or] grants awarded under this Subsection [(10)(c)] (11).

[(c)] (c) The State Tax Commission shall make payments of grants:

(i) upon receiving notice as provided under Subsection [(10)(d)] (11)(b); and

(ii) by not later than June 30 of the fiscal year of the appropriation.

(d) An entity that receives a grant under this Subsection (11) shall use the grant monies exclusively for programs or projects described in Subsection (2)(b).