

**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;



28 (C) illegal transportation of alcohol;

29 (D) illegal possession of alcohol; or

30 (E) illegal consumption of alcohol.

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

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

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

35 (c) "Coordinating council" means the Utah Substance Abuse and Anti-Violence

36 Coordinating Council created in Section 63-25a-201.

37 (d) "Municipality" means:

38 (i) a city; or

39 (ii) a town.

40 ~~[(+)]~~ (2) (a) (i) [The] Beginning with fiscal year 2007-08 and except as provided in

41 Subsection (2)(a)(iii), the Legislature shall annually appropriate from the General Fund to

42 municipalities and counties an amount not [to exceed \$4,350,000 from the revenues in the General

43 Fund generated by] less than the greater of:

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

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

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

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

48 (B) \$4,350,000.

49 (ii) For fiscal years 2003-04 through 2006-07 and except as provided in Subsection

50 (2)(a)(iii), the Legislature shall appropriate an amount not to exceed the following amounts from

51 the proceeds of the beer excise tax deposited in the General Fund in accordance with Section

52 59-15-109 to municipalities and counties:

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

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

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

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

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

58 deposited in the General Fund in accordance with Section 59-15-109 are less than the amount

59 required to be appropriated under this Subsection (2)(a), the Legislature shall appropriate to
 60 municipalities and counties an amount equal to the beer excise tax deposited in the General Fund
 61 during the fiscal year two years preceding the fiscal year of the appropriation.

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

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

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

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

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

70 (II) Legislative Fiscal Analyst.

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

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

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

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

85 ~~[(2)]~~ (3) (a) The ~~[appropriation]~~ appropriations provided for in Subsection ~~[(+)]~~ (2)(a) shall
 86 be distributed to municipalities and counties on the following basis:

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

89 ~~[(b)]~~ (ii) 30% to municipalities and counties based upon each ~~[municipality]~~ municipality's

90 and county's percentage of the statewide convictions for all alcohol-related offenses;

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

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

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

98 (ii) The State Tax Commission:

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

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

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

109 ~~[(3)]~~ (4) To determine the [amount of the 30% due each municipality and county based
110 on convictions described in] distributions required by Subsection ~~[(2)(b)]~~ (3)(a)(ii), the State Tax
111 Commission [semiannually] shall annually:

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

113 (i) multiply by two the total number of convictions in the state obtained [between July 1,
114 1982, and June 30, 1983, and] during the [same] annual conviction time period [in succeeding
115 years] for violation of:

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

117 (B) an ordinance that complies with the requirements of Subsection 41-6-43(1) or Section
118 76-5-207[-, and to that number,]; and

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

121 other than the alcohol-related offenses described in Subsection (4)(a)(i);

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

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

133 [~~(4)~~] (5) For purposes of this section[;]:

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

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

137 (ii) includes all:

138 (A) private clubs[;];

139 (B) restaurants[;];

140 (C) airport lounges[;];

141 (D) package agencies[;]; and

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

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

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

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

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

151 (e) a county's population figure under Subsection (3)(a)(iv) for the 25% distribution to

152 counties only shall be determined with reference to the total population in the county, including
153 that of municipalities[-];

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

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

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

160 ~~[(b) For purposes of this section, "alcohol-related offense" means a violation of Section~~
161 ~~41-6-44, or an ordinance that complies with the requirements of Subsection 41-6-43(1) or Section~~
162 ~~76-5-207, or an offense involving the illegal sale, distribution, transportation, possession, or~~
163 ~~consumption of alcohol.]~~

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

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

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

168 (a) the state court administrator shall certify to the State Tax Commission the number of
169 convictions obtained for [violation of Section 41-6-44, an ordinance that complies with the
170 requirements of Subsection 41-6-43(1), or Section 76-5-207, and for other] alcohol-related
171 offenses in each municipality or county in the state during the annual conviction time period
172 [specified in Subsection (3)(a), and for the same period each succeeding year.]; and

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

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

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

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

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

182 (d) any municipality or county that receives a distribution because the suspension of

183 payment has been cancelled under Subsection (10)(a)(ii).

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

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

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

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

197 (a) report to the coordinating council:

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

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

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

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

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

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

213 (i) suspend future payments under Subsection ~~[(7)]~~ (8) to a municipality or county that:

214 (A) does not file a report that meets the requirements of Subsection (9); ~~[and]~~ or
215 (B) the coordinating council finds does not use the monies as required by Subsection (2)(b)
216 on the basis of the report filed by the municipality or county under Subsection (9); and
217 (ii) cancel ~~[the]~~ a suspension under Subsection (10)(a)(i).
218 (b) The State Tax Commission shall:
219 (i) retain monies that a municipality or county does not receive under Subsection (10)(a);
220 and
221 (ii) notify the [~~Utah Substance Abuse and Anti-Violence~~] coordinating council of the
222 balance of retained monies under this Subsection (10)(b) after [~~each semiannual payment~~] the
223 annual distribution under Subsection [~~(7)~~] (8).
224 ~~[(c) The Utah Substance Abuse and Anti-Violence]~~
225 (11) (a) Subject to the requirements of this Subsection (11), the coordinating council shall
226 award the balance of retained monies under Subsection (10)(b):
227 (i) as prioritized by majority vote of the coordinating council; and
228 (ii) as grants to [any]:
229 (A) a county [~~or~~];
230 (B) a municipality; or [~~to~~]
231 (C) the Department of Public Safety[~~, as prioritized by a majority vote~~].
232 ~~[(d) The Utah Substance Abuse and Anti-Violence]~~
233 (b) By not later than May 30 of the fiscal year of the appropriation, the coordinating
234 council shall notify the State Tax Commission of any [~~changes under Subsection (10)(a) or~~] grants
235 awarded under this Subsection [~~(10)(c)~~] (11).
236 ~~[(e)] (c)~~ The State Tax Commission shall make payments of grants:
237 (i) upon receiving notice as provided under Subsection [~~(10)(d)~~] (11)(b); and
238 (ii) by not later than June 30 of the fiscal year of the appropriation.
239 (d) An entity that receives a grant under this Subsection (11) shall use the grant monies
240 exclusively for programs or projects described in Subsection (2)(b).

Legislative Review Note
as of 11-21-01 2:18 PM

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

Office of Legislative Research and General Counsel

Committee Note

The Business and Labor Interim Committee recommended this bill.