

1                                   **ALCOHOLIC BEVERAGE AMENDMENTS -**  
2                                   **ELIMINATING ALCOHOL SALES TO YOUTH**

3                                   2006 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Chief Sponsor: Peter C. Knudson**

6                                   House Sponsor: Peggy Wallace

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8                                   **LONG TITLE**

9                                   **General Description:**

10                                  This bill modifies the Alcoholic Beverage Control Act and related statutes to address  
11                                  state policy in funding the Alcoholic Beverage Enforcement and Treatment Restricted  
12                                  Account and issues relating to preventing the sale of alcohol to minors.

13                                  **Highlighted Provisions:**

14                                  This bill:

- 15                                  ▶ amends definitions;
- 16                                  ▶ clarifies the statewide public purpose of appropriations from the Alcoholic  
17                                  Beverage Enforcement and Treatment Restricted Account and the licenses  
18                                  considered in calculation formulas under from that account;
- 19                                  ▶ modifies provisions related to alcohol training and education seminars including:
  - 20    • training for persons who sell or directly supervise the sale of beer for an  
21    off-premise beer retailer that sells beer for off-premise consumption; and
  - 22    • penalties if certain individuals fail to complete an alcohol training and education  
23    seminar;
- 24                                  ▶ imposes requirements on off-premise beer retailers;
- 25                                  ▶ requires the creation of a tracking system for violations related to the sale of  
26                                  alcoholic beverages to a minor;
- 27                                  ▶ addresses penalties related to the sale of alcoholic beverages to a minor;
- 28                                  ▶ modifies the duties of certain state agencies;
- 29                                  ▶ modifies provisions related to the investigation of the sales of alcohol or tobacco to

30 underaged individuals; and  
31       ▶ makes technical changes.

32 **Monies Appropriated in this Bill:**

33       This bill appropriates:

34       ▶ as an ongoing appropriation subject to future budget constraints, \$543,750 from the  
35 General Fund for fiscal year 2006-07, to the Department of Public Safety to be used  
36 by the Highway Safety Office as provided in Section 32A-10-103; and

37       ▶ \$1,631,250 from the General Fund for fiscal year 2006-07 only, to the Department  
38 of Alcoholic Beverage Control to be used as provided in this bill for media and  
39 education campaigns.

40 **Other Special Clauses:**

41       This bill takes effect on July 1, 2006.

42 **Utah Code Sections Affected:**

43 AMENDS:

44       **32A-1-105**, as last amended by Chapter 152, Laws of Utah 2005

45       **32A-1-115**, as last amended by Chapter 2, Laws of Utah 2005

46       **32A-1-401**, as last amended by Chapter 314, Laws of Utah 2003

47       **32A-10-101**, as last amended by Chapter 314, Laws of Utah 2003

48       **62A-15-401**, as renumbered and amended by Chapter 8, Laws of Utah 2002, Fifth  
49 Special Session

50       **77-39-101**, as last amended by Chapters 282 and 319, Laws of Utah 1998

51 ENACTS:

52       **32A-10-103**, Utah Code Annotated 1953



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

55       Section 1. Section **32A-1-105** is amended to read:

56       **32A-1-105. Definitions.**

57       As used in this title:

58 (1) "Airport lounge" means a place of business licensed to sell alcoholic beverages, at  
59 retail, for consumption on its premises located at an international airport with a United States  
60 Customs office on the premises of the international airport.

61 (2) "Alcoholic beverages" means "beer" and "liquor" as the terms are defined in this  
62 section.

63 (3) (a) "Alcoholic products" means all products that:

64 (i) contain:

65 (A) at least 63/100 of 1% of alcohol by volume; or

66 (B) at least 1/2 of 1% by weight; and

67 (ii) are obtained by fermentation, infusion, decoction, brewing, distillation, or any other  
68 process that uses any liquid or combinations of liquids, whether drinkable or not, to create  
69 alcohol in an amount greater than the amount prescribed in Subsection (3)(a)(i).

70 (b) "Alcoholic products" does not include any of the following common items that  
71 otherwise come within the definition of alcoholic products:

72 (i) extracts;

73 (ii) vinegars;

74 (iii) ciders;

75 (iv) essences;

76 (v) tinctures;

77 (vi) food preparations; or

78 (vii) over-the-counter drugs and medicines.

79 (4) "Bar" means a counter or similar structure:

80 (a) at which alcoholic beverages are:

81 (i) stored; or

82 (ii) dispensed; or

83 (b) from which alcoholic beverages are served.

84 (5) (a) "Beer" means any product that ~~contains~~:

85 (i) contains 63/100 of 1% of alcohol by volume or 1/2 of 1% of alcohol by weight, but

- 86 not more than 4% of alcohol by volume or 3.2% by weight; and
- 87 (ii) is obtained by fermentation, infusion, or decoction of any malted grain.
- 88 (b) Beer may or may not contain hops or other vegetable products.
- 89 (c) Beer includes a product that:
- 90 (i) contains alcohol in the percentages described in Subsection (5)(a); and
- 91 (ii) is referred to as:
- 92 (A) malt liquor;
- 93 (B) malted beverages; or
- 94 (C) malt coolers.
- 95 (6) (a) "Beer retailer" means any business establishment that is:
- 96 (i) engaged, primarily or incidentally, in the retail sale of beer to public patrons,
- 97 whether for consumption on or off the establishment's premises; and
- 98 (ii) licensed to sell beer by:
- 99 (A) the commission;
- 100 (B) a local authority; or
- 101 (C) both the commission and a local authority.
- 102 (b) "Off-premise beer retailer" means a general food store or similar business that is
- 103 engaged in the retail sale of beer to public patrons for consumption off the beer retailer's
- 104 premises.
- 105 [~~(b)~~] (c) (i) "On-premise beer retailer" means any beer retailer engaged, primarily or
- 106 incidentally, in the sale of beer to public patrons for consumption on the beer retailer's
- 107 premises.
- 108 (ii) "On-premise beer retailer" includes a tavern.
- 109 (7) "Billboard" means any public display used to advertise including:
- 110 (a) a light device;
- 111 (b) a painting;
- 112 (c) a drawing;
- 113 (d) a poster;

- 114 (e) a sign;
- 115 (f) a signboard; or
- 116 (g) a scoreboard.
- 117 (8) "Brewer" means any person engaged in manufacturing beer.
- 118 (9) "Cash bar" means the service of alcoholic beverages:
- 119 (a) at:
- 120 (i) a banquet; or
- 121 (ii) a temporary event for which a permit is issued under this title; and
- 122 (b) if an attendee at the banquet or temporary event is charged for the alcoholic
- 123 beverage.
- 124 (10) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
- 125 a bus company to a group of persons pursuant to a common purpose:
- 126 (a) under a single contract;
- 127 (b) at a fixed charge in accordance with the bus company's tariff; and
- 128 (c) for the purpose of giving the group of persons the exclusive use of the bus and a
- 129 driver to travel together to a specified destination or destinations.
- 130 (11) "Church" means a building:
- 131 (a) set apart for the purpose of worship;
- 132 (b) in which religious services are held;
- 133 (c) with which clergy is associated; and
- 134 (d) which is tax exempt under the laws of this state.
- 135 (12) "Club" and "private club" means any of the following organized primarily for the
- 136 benefit of its members:
- 137 (a) a social club;
- 138 (b) a recreational association;
- 139 (c) a fraternal association;
- 140 (d) an athletic association; or
- 141 (e) a kindred association.

- 142 (13) "Commission" means the Alcoholic Beverage Control Commission.
- 143 (14) "Department" means the Department of Alcoholic Beverage Control.
- 144 (15) "Distressed merchandise" means any alcoholic beverage in the possession of the  
145 department that is saleable, but for some reason is unappealing to the public.
- 146 (16) "General food store" means any business establishment primarily engaged in  
147 selling food and grocery supplies to public patrons for off-premise consumption.
- 148 (17) "Guest" means a person accompanied by an active member or visitor of a club  
149 who enjoys only those privileges derived from the host for the duration of the visit to the club.
- 150 (18) (a) "Heavy beer" means any product that:
- 151 (i) contains more than 4% alcohol by volume; and
- 152 (ii) is obtained by fermentation, infusion, or decoction of any malted grain.
- 153 (b) "Heavy beer" is considered "liquor" for the purposes of this title.
- 154 (19) "Hosted bar" means the service of alcoholic beverages:
- 155 (a) without charge; and
- 156 (b) at a:
- 157 (i) banquet; or
- 158 (ii) privately hosted event.
- 159 (20) "Identification card" means the identification card issued under Title 53, Chapter  
160 3, Part 8, Identification Card Act.
- 161 (21) "Interdicted person" means a person to whom the sale, gift, or provision of an  
162 alcoholic beverage is prohibited by:
- 163 (a) law; or
- 164 (b) court order.
- 165 (22) "Intoxicated" means that to a degree that is unlawful under Section 76-9-701 a  
166 person is under the influence of:
- 167 (a) an alcoholic beverage;
- 168 (b) a controlled substance;
- 169 (c) a substance having the property of releasing toxic vapors; or

170 (d) a combination of Subsections (22)(a) through (c).

171 (23) "Licensee" means any person issued a license by the commission to sell,  
172 manufacture, store, or allow consumption of alcoholic beverages on premises owned or  
173 controlled by the person.

174 (24) "Limousine" means any motor vehicle licensed by the state or a local authority,  
175 other than a bus or taxicab:

176 (a) in which the driver and passengers are separated by a partition, glass, or other  
177 barrier; and

178 (b) that is provided by a company to an individual or individuals at a fixed charge in  
179 accordance with the company's tariff for the purpose of giving the individual or individuals the  
180 exclusive use of the limousine and a driver to travel to a specified destination or destinations.

181 (25) (a) "Liquor" means alcohol, or any alcoholic, spirituous, vinous, fermented, malt,  
182 or other liquid, or combination of liquids, a part of which is spirituous, vinous, or fermented,  
183 and all other drinks, or drinkable liquids that contain more than 1/2 of 1% of alcohol by volume  
184 and is suitable to use for beverage purposes.

185 (b) "Liquor" does not include any beverage defined as a beer, malt liquor, or malted  
186 beverage that has an alcohol content of less than 4% alcohol by volume.

187 (26) "Local authority" means:

188 (a) the governing body of the county if the premises are located in an unincorporated  
189 area of a county; or

190 (b) the governing body of the city or town if the premises are located in an incorporated  
191 city or a town.

192 (27) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or  
193 otherwise make an alcoholic product for personal use or for sale or distribution to others.

194 (28) "Member" means a person who, after paying regular dues, has full privileges of a  
195 club under this title.

196 (29) (a) "Military installation" means a base, air field, camp, post, station, yard, center,  
197 or homeport facility for any ship:

- 198 (i) (A) under the control of the United States Department of Defense; or  
199 (B) of the National Guard;  
200 (ii) that is located within the state; and  
201 (iii) including any leased facility.
- 202 (b) "Military installation" does not include any facility used primarily for:  
203 (i) civil works;  
204 (ii) rivers and harbors projects; or  
205 (iii) flood control projects.
- 206 (30) "Minor" means any person under the age of 21 years.
- 207 (31) "Outlet" means a location other than a state store or package agency where  
208 alcoholic beverages are sold pursuant to a license issued by the commission.
- 209 (32) "Package" means any of the following containing liquor:  
210 (a) a container;  
211 (b) a bottle;  
212 (c) a vessel; or  
213 (d) other receptacle.
- 214 (33) "Package agency" means a retail liquor location operated under a contractual  
215 agreement with the department, by a person other than the state, who is authorized by the  
216 commission to sell package liquor for consumption off the premises of the agency.
- 217 (34) "Package agent" means any person permitted by the commission to operate a  
218 package agency pursuant to a contractual agreement with the department to sell liquor from  
219 premises that the package agent shall provide and maintain.
- 220 (35) "Permittee" means any person issued a permit by the commission to perform acts  
221 or exercise privileges as specifically granted in the permit.
- 222 (36) "Person" means any individual, partnership, firm, corporation, limited liability  
223 company, association, business trust, or other form of business enterprise, including a receiver  
224 or trustee, and the plural as well as the singular number, unless the intent to give a more limited  
225 meaning is disclosed by the context.



226 (37) "Premises" means any building, enclosure, room, or equipment used in connection  
227 with the sale, storage, service, manufacture, distribution, or consumption of alcoholic products,  
228 unless otherwise defined in this title or in the rules adopted by the commission.

229 (38) "Prescription" means a writing in legal form, signed by a physician or dentist and  
230 given to a patient for obtaining an alcoholic beverage for medicinal purposes only.

231 (39) (a) "Privately hosted event" or "private social function" means a specific social,  
232 business, or recreational event for which an entire room, area, or hall has been leased or rented,  
233 in advance by an identified group, and the event or function is limited in attendance to people  
234 who have been specifically designated and their guests.

235 (b) "Privately hosted event" and "private social function" does not include events or  
236 functions to which the general public is invited, whether for an admission fee or not.

237 (40) "Proof of age" means:

238 (a) an identification card;

239 (b) an identification that:

240 (i) is substantially similar to an identification card;

241 (ii) is issued in accordance with the laws of a state other than Utah in which the  
242 identification is issued;

243 (iii) includes date of birth; and

244 (iv) has a picture affixed;

245 (c) a valid driver license certificate that:

246 (i) includes date of birth;

247 (ii) has a picture affixed; and

248 (iii) is issued:

249 (A) under Title 53, Chapter 3, Uniform Driver License Act; or

250 (B) in accordance with the laws of the state in which it is issued;

251 (d) a military identification card that:

252 (i) includes date of birth; and

253 (ii) has a picture affixed; or

254 (e) a valid passport.

255 (41) (a) "Public building" means any building or permanent structure owned or leased  
256 by the state, a county, or local government entity that is used for:

257 (i) public education;

258 (ii) transacting public business; or

259 (iii) regularly conducting government activities.

260 (b) "Public building" does not mean or refer to any building owned by the state or a  
261 county or local government entity when the building is used by anyone, in whole or in part, for  
262 proprietary functions.

263 (42) "Representative" means an individual who is compensated by salary, commission,  
264 or any other means for representing and selling the alcoholic beverage products of a  
265 manufacturer, supplier, or importer of liquor, wine, or heavy beer.

266 (43) "Residence" means the person's principal place of abode within Utah.

267 (44) "Restaurant" means any business establishment:

268 (a) where a variety of foods is prepared and complete meals are served to the general  
269 public;

270 (b) located on a premises having adequate culinary fixtures for food preparation and  
271 dining accommodations; and

272 (c) that is engaged primarily in serving meals to the general public.

273 (45) "Retailer" means any person engaged in the sale or distribution of alcoholic  
274 beverages to the consumer.

275 (46) (a) "Sample" includes:

276 (i) a department sample; and

277 (ii) an industry representative sample.

278 (b) "Department sample" means liquor, wine, and heavy beer that has been placed in  
279 the possession of the department for testing, analysis, and sampling.

280 (c) "Industry representative sample" means liquor, wine, and heavy beer that has been  
281 placed in the possession of the department for testing, analysis, and sampling by local industry

282 representatives on the premises of the department to educate the local industry representatives  
283 of the quality and characteristics of the product.

284 (47) (a) "School" means any building used primarily for the general education of  
285 minors.

286 (b) "School" does not include:

287 (i) a nursery school;

288 (ii) an infant day care center; or

289 (iii) a trade or technical school.

290 (48) "Sell," "sale," and "to sell" means any transaction, exchange, or barter whereby,  
291 for any consideration, an alcoholic beverage is either directly or indirectly transferred, solicited,  
292 ordered, delivered for value, or by any means or under any pretext is promised or obtained,  
293 whether done by a person as a principal, proprietor, or as an agent, servant, or employee, unless  
294 otherwise defined in this title or the rules made by the commission.

295 (49) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer  
296 and heavy beer per year.

297 (50) (a) "Spirituous liquor" means liquor that is distilled.

298 (b) "Spirituous liquor" includes an alcohol product defined as a "distilled spirit" by 27  
299 U.S.C. 211 and 27 C.F.R. Sections 5.11 through 5.23.

300 (51) (a) "State label" means the official label designated by the commission affixed to  
301 all liquor containers sold in the state.

302 (b) "State label" includes the department identification mark and inventory control  
303 number.

304 (52) (a) "State store" means a facility for the sale of package liquor:

305 (i) located on premises owned or leased by the state; and

306 (ii) operated by state employees.

307 (b) "State store" does not apply to any:

308 (i) licensee;

309 (ii) permittee; or

- 310 (iii) package agency.
- 311 (53) "Supplier" means any person selling alcoholic beverages to the department.
- 312 (54) (a) "Tavern" means any business establishment that is:
- 313 (i) engaged primarily in the retail sale of beer to public patrons for consumption on the
- 314 establishment's premises; and
- 315 (ii) licensed to sell beer under Chapter 10, Part 2, On-Premise Beer Retailer Licenses.
- 316 (b) "Tavern" includes the following if the revenue from the sale of beer exceeds the
- 317 revenue of the sale of food, although food need not be sold in the establishment:
- 318 (i) a beer bar;
- 319 (ii) a parlor;
- 320 (iii) a lounge;
- 321 (iv) a cabaret; or
- 322 (v) a nightclub.
- 323 (55) "Temporary domicile" means the principal place of abode within Utah of a person
- 324 who does not have a present intention to continue residency within Utah permanently or
- 325 indefinitely.
- 326 (56) "Unsaleable liquor merchandise" means merchandise that:
- 327 (a) is unsaleable because the merchandise is:
- 328 (i) unlabeled;
- 329 (ii) leaky;
- 330 (iii) damaged;
- 331 (iv) difficult to open; or
- 332 (v) partly filled;
- 333 (b) is in a container:
- 334 (i) having faded labels or defective caps or corks;
- 335 (ii) in which the contents are:
- 336 (A) cloudy;
- 337 (B) spoiled; or

338 (C) chemically determined to be impure; or

339 (iii) that contains:

340 (A) sediment; or

341 (B) any foreign substance; or

342 (c) is otherwise considered by the department as unfit for sale.

343 (57) "Visitor" means an individual that in accordance with Section 32A-5-107 holds

344 limited privileges in a private club by virtue of a visitor card.

345 (58) "Warehouser" means any person, other than a licensed manufacturer, engaged in

346 the importation for sale, storage, or distribution of liquor regardless of amount.

347 (59) "Wholesaler" means any person engaged in the importation for sale, or in the sale

348 of beer in wholesale or jobbing quantities to retailers, other than a small brewer selling beer

349 manufactured by that brewer.

350 (60) (a) "Wine" means any alcoholic beverage obtained by the fermentation of the

351 natural sugar content of fruits, plants, honey, or milk, or any other like substance, whether or

352 not other ingredients are added.

353 (b) "Wine" is considered "liquor" for purposes of this title, except as otherwise

354 provided in this title.

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

356 **32A-1-115. Alcoholic Beverage Enforcement and Treatment Restricted Account**

357 **-- Distribution to municipalities and counties.**

358 (1) As used in this section:

359 (a) "Account" means the Alcoholic Beverage Enforcement and Treatment Restricted

360 Account created in this section.

361 (b) "Alcohol-related offense" means:

362 (i) a violation of:

363 (A) Section 41-6a-502; or

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

365 (I) Subsection 41-6a-510(1); or

366 (II) Section 76-5-207; or  
367 (ii) an offense involving the:  
368 (A) illegal sale of alcohol;  
369 (B) illegal distribution of alcohol;  
370 (C) illegal transportation of alcohol;  
371 (D) illegal possession of alcohol; or  
372 (E) illegal consumption of alcohol.  
373 (c) "Annual conviction time period" means the time period that:  
374 (i) begins on July 1 and ends on June 30; and  
375 (ii) immediately precedes the fiscal year for which an appropriation under this section  
376 is made.  
377 (d) "Coordinating council" means the Utah Substance Abuse and Anti-Violence  
378 Coordinating Council created in Section 63-25a-201.  
379 (e) "Municipality" means:  
380 (i) a city; or  
381 (ii) a town.  
382 (2) (a) There is created in the General Fund a restricted account called the "Alcoholic  
383 Beverage Enforcement and Treatment Restricted Account."  
384 (b) The account shall be funded from:  
385 (i) amounts deposited by the state treasurer in accordance with Section 59-15-109;  
386 (ii) any appropriations made to the account by the Legislature; and  
387 (iii) interest described in Subsection (2)(c).  
388 (c) Interest earned on the account shall be deposited into the account.  
389 (d) (i) [~~The~~] Consistent with the policies provided in Subsection 32A-1-104(4)(b), the  
390 revenues in the account shall be used for statewide public purposes including promoting the  
391 reduction of the harmful effects of over consumption of alcoholic beverages by adults and  
392 alcohol consumption by minors by funding exclusively [for] programs or projects related to  
393 prevention, treatment, detection, prosecution, and control of violations of this title and other

394 offenses in which alcohol is a contributing factor except as provided in Subsection (2)(d)(ii).

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

398 (iii) Any municipality or county entitled to receive funds shall use the funds  
399 exclusively as required by this Subsection (2)(d).

400 (iv) The appropriations provided for under Subsection (3) are:

401 (A) intended to supplement the budget of the appropriate agencies of each municipality  
402 and county within the state to enable the municipalities and counties to more effectively fund  
403 the programs and projects described in this Subsection (2)(d); and

404 (B) not intended to replace funds that would otherwise be allocated for the programs  
405 and projects in this Subsection (2)(d).

406 (3) (a) The revenues deposited into the account shall be distributed to municipalities  
407 and counties:

408 (i) to the extent appropriated by the Legislature except that the Legislature shall  
409 appropriate each fiscal year an amount equal to at least the amount deposited in the account in  
410 accordance with Section 59-15-109; and

411 (ii) as provided in this Subsection (3).

412 (b) The amount appropriated from the account shall be distributed as follows:

413 (i) 25% to municipalities and counties based upon the percentage of the state  
414 population residing in each municipality and county;

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

417 (iii) 20% to municipalities and counties based upon the percentage of all state stores,  
418 package agencies, liquor licensees, and beer licensees in the state that are located in each  
419 municipality and county; and

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

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

424 (ii) The State Tax Commission:

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

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

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

435 (4) To determine the distributions required by Subsection (3)(b)(ii), the State Tax  
436 Commission shall annually:

437 (a) for an annual conviction time period:

438 (i) multiply by two the total number of convictions in the state obtained during the  
439 annual conviction time period for violation of:

440 (A) Section 41-6a-502; or

441 (B) an ordinance that complies with the requirements of Subsection 41-6a-510(1) or  
442 Section 76-5-207; and

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

446 (b) divide an amount equal to 30% of the appropriation for that fiscal year by the sum  
447 obtained in Subsection (4)(a); and

448 (c) multiply the amount calculated under Subsection (4)(b), by the number of  
449 convictions obtained in each municipality and county during the annual conviction time period



450 for alcohol-related offenses.

451 (5) For purposes of this section:

452 (a) the number of state stores, package agencies, and licensees located within the limits

453 of each municipality and county:

454 (i) is the number determined by the department to be so located;

455 (ii) includes all:

456 (A) private clubs;

457 (B) restaurants;

458 (C) limited restaurants;

459 (D) on-premise banquet licenses;

460 [~~(E)~~] (E) airport lounges;

461 [~~(F)~~] (F) package agencies; and

462 [~~(G)~~] (G) state stores; and

463 (iii) does not include on-premise beer retailer licensees;

464 (b) the number of state stores, package agencies, and licensees in a county consists only

465 of that number located within unincorporated areas of the county;

466 (c) population figures shall be determined according to the most current population

467 estimates prepared by the Utah Population Estimates Committee;

468 (d) a county's population figure for the 25% distribution to municipalities and counties

469 under Subsection (3)(b)(i) shall be determined only with reference to the population in the

470 unincorporated areas of the county;

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

472 counties only shall be determined with reference to the total population in the county, including

473 that of municipalities;

474 (f) a conviction occurs in the municipality or county that actually prosecutes the

475 offense to judgment; and

476 (g) in the case of a conviction based upon a guilty plea, the conviction is considered to

477 occur in the municipality or county that, except for the guilty plea, would have prosecuted the

478 offense.

479 (6) By not later than September 1 each year:

480 (a) the state court administrator shall certify to the State Tax Commission the number  
481 of convictions obtained for alcohol-related offenses in each municipality or county in the state  
482 during the annual conviction time period; and

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

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

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

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

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

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

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

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

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

504 (9) A municipality or county that receives any monies under this section during a fiscal  
505 year shall by no later than October 1 following the fiscal year:

506 (a) report to the coordinating council:  
507 (i) the programs or projects of the municipality or county that receive monies under  
508 this section;  
509 (ii) if the monies for programs or projects were exclusively used as required by  
510 Subsection (2)(d);  
511 (iii) indicators of whether the programs or projects that receive monies under this  
512 section are effective; and  
513 (iv) if any monies received under this section were not expended by the municipality or  
514 county; and  
515 (b) provide the coordinating council a statement signed by the chief executive officer  
516 of the county or municipality attesting that the monies received under this section were used in  
517 addition to any monies appropriated or otherwise available for the county's or municipality's  
518 law enforcement and were not used to supplant those monies.  
519 (10) (a) The coordinating council may, by a majority vote:  
520 (i) suspend future payments under Subsection (8) to a municipality or county that:  
521 (A) does not file a report that meets the requirements of Subsection (9); or  
522 (B) the coordinating council finds does not use the monies as required by Subsection  
523 (2)(d) on the basis of the report filed by the municipality or county under Subsection (9); and  
524 (ii) cancel a suspension under Subsection (10)(a)(i).  
525 (b) The State Tax Commission shall:  
526 (i) retain monies that a municipality or county does not receive under Subsection  
527 (10)(a); and  
528 (ii) notify the coordinating council of the balance of retained monies under this  
529 Subsection (10)(b) after the annual distribution under Subsection (8).  
530 (11) (a) Subject to the requirements of this Subsection (11), the coordinating council  
531 shall award the balance of retained monies under Subsection (10)(b):  
532 (i) as prioritized by majority vote of the coordinating council; and  
533 (ii) as grants to:

- 534 (A) a county;
- 535 (B) a municipality; or
- 536 (C) the Department of Public Safety.

537 (b) By not later than May 30 of the fiscal year of the appropriation, the coordinating  
 538 council shall notify the State Tax Commission of any grants awarded under this Subsection  
 539 (11).

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

- 541 (i) upon receiving notice as provided under Subsection (11)(b); and
- 542 (ii) by not later than June 30 of the fiscal year of the appropriation.

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

545 Section 3. Section **32A-1-401** is amended to read:

546 **32A-1-401. Alcohol training and education -- Revocation, suspension, or**  
 547 **nonrenewal of licenses.**

548 (1) The commission may suspend, revoke, or not renew the license of any licensee  
 549 licensed by the commission if any of the following [~~persons~~] individuals, as defined in Section  
 550 62A-15-401, fail to complete [~~the~~] an alcohol training and education seminar required in  
 551 Section 62A-15-401:

552 (a) [~~a person~~] an individual who manages operations at the premises of the licensee  
 553 engaged in the retail sale of alcoholic beverages for consumption on the premises of the  
 554 licensee;

555 (b) [~~a person~~] an individual who supervises the serving of alcoholic beverages to a  
 556 customer for consumption on the premises of the licensee; or

557 (c) [~~a person~~] an individual who serves alcoholic beverages to a customer for  
 558 consumption on the premises of the licensee.

559 (2) A city, town, or county in which an establishment conducts its business may  
 560 suspend, revoke, or not renew the business license of the establishment if any [~~person~~]  
 561 individual described in Subsection (1) fails to complete [~~the~~] an alcohol training and education

562 seminar required in Section 62A-15-401.

563 (3) A local authority that issues an off-premise beer retailer license to a general food  
564 store or similar business that is engaged in the retail sale of beer for consumption off the beer  
565 retailer's premises may immediately suspend the license if any of the following individuals fail  
566 to complete an alcohol training and education seminar required in Sections 32A-10-103 and  
567 62A-15-401, an individual who:

568 (a) directly supervises the sale of beer to a customer for consumption off the premises  
569 of the off-premise beer retailer licensee; or

570 (b) sells beer to a customer for consumption off the premises of the off-premise beer  
571 retailer licensee.

572 Section 4. Section **32A-10-101** is amended to read:

573 **32A-10-101. State and local licensing -- Limitations.**

574 (1) Any local authority may:

575 (a) tax or prohibit any retail sale of beer;

576 (b) issue, suspend, and revoke licenses to sell beer at retail for on-premise  
577 consumption;

578 (c) issue, suspend, and revoke temporary permits or licenses to sell beer for on-premise  
579 consumption at temporary special events that do not last longer than 30 days;

580 (d) issue, suspend, and revoke licenses to general food stores and other establishments  
581 to sell beer at retail for off-premise consumption;

582 (e) establish proximity restrictions for establishing premises where beer is sold at retail  
583 for off-premise consumption in relation to any public or private school, church, public library,  
584 public playground, or park; and

585 (f) otherwise regulate the retail sale of beer for off-premise consumption subject to the  
586 requirements of Sections 32A-10-102 and 32A-10-103.

587 (2) The commission shall issue licenses to sell beer at retail for on-premise  
588 consumption as provided in Part 2, On-Premise Beer Retailer Licenses.

589 (3) Each licensee issued a license for on-premise consumption, by the commission

590 under Subsection (2) or by the local authority under Subsection (1), is subject to the operational  
591 restrictions provided in Section 32A-10-206, except as otherwise provided.

592 (4) Suspension or revocation of an on-premise beer retailer license issued by the  
593 commission under Subsection (2) or an on-premise beer retailer license issued by a local  
594 authority under Subsection (1) prohibits the establishment whose license is suspended or  
595 revoked from continuing to operate under the other state or local license it may have.

596 (5) The commission shall issue temporary permits to sell beer at retail for on-premise  
597 consumption at temporary special events that do not last longer than 30 days as provided in  
598 Part 3, Temporary Special Event Beer Permits.

599 (6) Each permittee issued a temporary permit by the commission under Subsection (5)  
600 or by the local authority under Subsection (1), is subject to the operational restrictions provided  
601 in Section 32A-10-306, except as otherwise provided.

602 (7) Suspension or revocation of a temporary permit issued by the commission under  
603 Subsection (5) or by a local authority under Subsection (1) prohibits the permittee whose  
604 permit is suspended or revoked from continuing to operate under the other state or local permit  
605 the permittee may have.

606 Section 5. Section **32A-10-103** is enacted to read:

607 **32A-10-103. Alcohol training and education for off-premise consumption --**  
608 **Requirements on off-premise beer retailer licensees -- Penalties related to sales to minors**  
609 **-- Hearings -- Tracking.**

610 (1) (a) A local authority that issues an off-premise beer retailer license to a general  
611 food store or similar business to sell beer at retail for off-premise consumption shall require the  
612 following to have a valid certificate that the individual completed an alcohol training and  
613 education seminar required by Section 62A-15-401 in the time frames required by Subsection  
614 (1)(b), any individual who:

615 (i) directly supervises the sale of beer to a customer for consumption off the premises  
616 of the off-premise beer retailer licensee; or

617 (ii) sells beer to a customer for consumption off the premises of the off-premise beer

618 retailer licensee.

619 (b) (i) An individual shall complete an alcohol training and education seminar required  
620 by Section 62A-15-401 within 30 days of the day on which the individual is employed by an  
621 off-premise beer retailer licensee if the individual:

622 (A) is employed on or after September 1, 2006; and

623 (B) on the date of employment, does not have a valid certificate that the individual has  
624 completed an alcohol training and education seminar for purposes of this section.

625 (ii) An individual shall complete an alcohol training and education seminar by not later  
626 than October 1, 2006 if the individual:

627 (A) is employed before September 1, 2006; and

628 (B) on September 1, 2006, does not have a valid certificate that the individual has  
629 completed an alcohol training and education seminar for purposes of this section.

630 (iii) The validity of a certificate that an individual has completed an alcohol training  
631 and education seminar required by this section is governed by Section 62A-15-401.

632 (2) In accordance with Section 32A-1-401, a local authority may immediately suspend  
633 the license of an off-premise beer retailer that allows an employee to directly supervise the sale  
634 of beer or to sell beer to a customer without having a valid certificate that the individual  
635 completed an alcohol training and education seminar in accordance with Subsection (1).

636 (3) (a) Each employee of a licensed off-premise beer retailer who directly supervises  
637 the sale of beer or who sells beer to a customer for consumption off the premises of the  
638 off-premise beer retailer shall wear a unique identification badge:

639 (i) on the front of the employee's clothing;

640 (ii) visible above the waist;

641 (iii) bearing the employee's:

642 (A) first or last name;

643 (B) initials; or

644 (C) unique identification in letters or numbers; and

645 (iv) with the number or letters on the unique identification badge being sufficiently

646 large to be clearly visible and identifiable while engaging in or directly supervising the retail  
647 sale of beer.

648 (b) (i) An off-premise beer retailer licensee shall maintain a record of all current  
649 employee unique identification badges assigned by the off-premise beer retailer licensee.

650 (ii) The record required to be maintained under Subsection (3)(b)(i) shall:

651 (A) be available for immediate inspection by:

652 (I) any peace officer; or

653 (II) a representative of the local licensing authority; and

654 (B) include the employee's:

655 (I) full name;

656 (II) address; and

657 (III) (Aa) driver license number; or

658 (Bb) similar identification number.

659 (c) A local authority may impose a fine of up to \$250 against any off-premise beer  
660 retailer that does not comply or require its employees to comply with this Subsection (3).

661 (4) (a) In addition to any criminal penalties that may be imposed, an individual is  
662 subject to the administrative penalties imposed by a local authority described in Subsection  
663 (4)(b) if:

664 (i) that individual:

665 (A) completes an alcohol training and education seminar required by Subsection (1);  
666 and

667 (B) after completing the alcohol training and education seminar required by Subsection  
668 (1), is found in violation of any law involving the sale of an alcoholic beverage to a minor;

669 (ii) the violation described in Subsection (4)(a)(i)(B) is based on conduct that occurs  
670 while the individual is on duty as an employee of an off-premise beer retailer licensee; and

671 (iii) the local authority brings an adjudicative proceeding against the individual.

672 (b) If the conditions of Subsection (4)(a) are met, a local authority shall impose the  
673 following administrative penalties:



674 (i) upon a first violation, the individual may not sell or directly supervise the sale of  
675 beer to a customer for consumption off the premises of the off-premise beer retailer licensee  
676 until the individual retakes and completes an alcohol training and education seminar described  
677 in Section 62A-15-401;

678 (ii) upon a second violation, the individual may not sell or directly supervise the sale of  
679 beer to a customer for consumption off the premises of the off-premise beer retailer licensee  
680 until the later of:

681 (A) 90 days from the day on which the administrative penalty is imposed; and

682 (B) the day on which the individual:

683 (I) retakes and completes the alcohol training and education seminar described in  
684 Section 62A-15-401; and

685 (II) completes any additional training that the local authority may require; and

686 (iii) upon a third or subsequent violation, the individual may not sell or directly  
687 supervise the sale of beer to a customer for consumption off the premises of the off-premise  
688 beer retailer licensee until the later of:

689 (A) one year from the day on which the administrative penalty is imposed; and

690 (B) the day on which the individual:

691 (I) retakes and completes an alcohol training and education seminar described in  
692 Section 62A-15-401; and

693 (II) completes any additional training that the local authority may require.

694 (c) (i) During the period of time an individual is prohibited from selling or directly  
695 supervising the sale of beer under Subsection (4)(b), an off-premise beer retailer licensee may  
696 not allow that individual to:

697 (A) directly supervise the sale of beer for the off-premise beer retailer licensee; or

698 (B) sell beer for the off-premise beer retailer licensee.

699 (ii) A violation of this Subsection (4)(c) is grounds for the immediate suspension of the  
700 off-premise beer retailer's license.

701 (5) (a) In addition to any criminal penalties that may be imposed, an off-premise beer

702 retailer licensee is subject to the administrative penalties imposed by a local authority described  
703 in Subsection (5)(b) if:

704 (i) an employee of the off-premise beer retailer licensee is found in violation of any law  
705 involving the sale of alcoholic beverage to a minor;

706 (ii) the violation described in Subsection (5)(a)(i) occurs while the employee is on duty  
707 for the off-premise beer retailer licensee; and

708 (iii) the local authority brings an adjudicative proceeding against the off-premise beer  
709 retailer licensee.

710 (b) If the conditions of Subsection (5)(a) are met, a local authority shall impose the  
711 following administrative penalties:

712 (i) upon a first violation, the off-premise beer retailer licensee shall be issued a written  
713 warning;

714 (ii) upon a second violation, the off-premise beer retailer licensee shall pay a civil fine  
715 of \$250;

716 (iii) upon a third violation, the off-premise beer retailer licensee shall pay a civil fine of  
717 \$500;

718 (iv) upon a fourth or subsequent violation, the off-premise beer retailer licensee shall:

719 (A) pay a civil fine of \$500;

720 (B) have its license to sell beer suspended for a period of 30 consecutive days from the  
721 date on which the administrative penalty is imposed; and

722 (C) be placed on probation for a period of one year from the date on which the  
723 administrative penalty is imposed; and

724 (v) upon any violation by the off-premise beer retailer licensee or any on-duty  
725 employee of the off-premise beer retailer licensee during the period of probation specified in  
726 Subsection (5)(b)(iv)(C):

727 (A) the off-premise beer retailer licensee's license to sell beer shall be revoked; and

728 (B) the off-premise beer retailer licensee is not eligible to reapply for a new license for  
729 at least six months from the date of revocation.

730 (c) (i) An off-premise beer retailer licensee's failure to pay a fine imposed under this  
731 Subsection (5) within 30 days of the day on which the fine is imposed is grounds for the  
732 immediate suspension of the off-premise beer retailer licensee's license to sell beer until  
733 payment is made.

734 (ii) An off-premise beer retailer licensee's failure to pay the fine described in  
735 Subsection (5)(c)(i) within 30 days of the day on which the license is suspended under  
736 Subsection (5)(c)(i) is grounds for revocation of the licensee's license to sell beer.

737 (6) (a) Any local authority that adjudicates an administrative penalty for a violation of  
738 any law involving the sale of an alcoholic beverage to any minor pursuant to Subsection (4) or  
739 (5), shall:

740 (i) maintain a record of the adjudicated violation until the record is expunged under  
741 Subsection (6)(c);

742 (ii) include in the record described in Subsection (6)(a)(i):

743 (A) the name of the individual who committed the violation;

744 (B) the name of the off-premise beer retailer licensee for whom the individual was  
745 employed at the time of the violation; and

746 (C) the date of the adjudication of the violation; and

747 (iii) provide the Highway Safety Office of the Department of Public Safety within 30  
748 days of the date on which a violation is adjudicated the information described in Subsection  
749 (6)(a)(ii).

750 (b) (i) The Highway Safety Office shall develop and operate a system to collect,  
751 analyze, maintain, track, and disseminate the violation history information received under  
752 Subsection (6)(a).

753 (ii) The system described in Subsection (6)(b)(i) shall be made available to:

754 (A) assist a local authority in assessing administrative penalties under Subsection (4);

755 and

756 (B) inform an off-premise beer retailer licensee of an individual who has an  
757 administrative violation history under Subsection (4).

758 (iii) The Highway Safety Office shall maintain a record of violation history information  
759 received pursuant to Subsection (6)(a) until the record is expunged under Subsection (6)(c).

760 (c) (i) A local authority and the Highway Safety Office shall expunge from the records  
761 maintained under this Subsection (6) an administrative penalty imposed under Subsection (4)  
762 for purposes of determining future administrative penalties under Subsection (4) if the  
763 individual has not been found in violation of any law involving the sale of an alcoholic  
764 beverage to a minor for a period of 36 consecutive months from the day on which the  
765 individual is last adjudicated as violating a law involving the sale of an alcoholic beverage to a  
766 minor.

767 (ii) A local authority shall expunge from the records maintained by the local authority  
768 an administrative penalty imposed under Subsection (5) against an off-premise beer retailer  
769 licensee for purposes of determining future administrative penalties under Subsection (5) if the  
770 off-premise beer retailer licensee or any employee of that off-premise beer retailer licensee has  
771 not been found in violation of any law involving the sale of an alcoholic beverage to a minor  
772 for a period of 36 consecutive months from the day on which the off-premise beer retailer  
773 licensee or its employee is last adjudicated as violating a law involving the sale of an alcoholic  
774 beverage to a minor.

775 (7) (a) A local authority shall conduct a hearing if an off-premise beer retailer licensee  
776 or individual identified in Subsection (1) requests a hearing before the local authority.

777 (b) A local authority conducting a hearing under this Subsection (7) shall provide the  
778 person requesting the hearing:

779 (i) notice of the hearing; and

780 (ii) an opportunity to be heard at the hearing.

781 (8) The Highway Safety Office of the Department of Public Safety shall administer a  
782 program to:

783 (a) reimburse a municipal or county law enforcement agency:

784 (i) for the actual costs of an alcohol-related compliance check investigation conducted  
785 pursuant to Section 77-39-101;

- 786 (ii) for any administrative costs associated with reporting the compliance check
- 787 investigation described in Subsection (8)(a)(i);
- 788 (iii) if the municipal or county law enforcement agency completes and submits to the
- 789 Highway Safety Office a report within 90 days of the compliance check investigation described
- 790 in Subsection (8)(a)(i) in a format required by the Highway Safety Office; and
- 791 (iv) in the order that the municipal or county law enforcement agency submits the
- 792 report required by Subsection (8)(a)(iii) until the amount allocated by the Highway Safety
- 793 Office to reimburse a municipal or county law enforcement agency is spent;
- 794 (b) develop and operate a system to collect, analyze, maintain, track, and disseminate
- 795 violation history information pursuant to Subsection (6); and
- 796 (c) have the Highway Safety Office report to the Utah Substance Abuse and
- 797 Anti-Violence Coordinating Council by no later than October 1 following a fiscal year on the
- 798 following funded during the prior fiscal year:
- 799 (i) all compliance check investigations reimbursed under Subsection (8)(a); and
- 800 (ii) the collection, analysis, maintenance, tracking, and dissemination of violation
- 801 history information provided in Subsection (8)(b).

Section 6. Section **62A-15-401** is amended to read:

**62A-15-401. Alcohol training and education seminar.**

(1) As used in this part:

(a) "general food store" is as defined in Section 32A-1-105;

~~[(a)]~~ (b) "instructor" means a person that directly provides the instruction during an alcohol training and education seminar for a seminar provider;

~~[(b)]~~ (c) "licensee" means a person who is:

(i) (A) a new or renewing licensee under Title 32A, Alcoholic Beverage Control Act;

and

~~[(ii)]~~ (B) engaged in the retail sale of alcoholic beverages for consumption on the premises of the licensee; ~~[and]~~ or

(ii) a general food store or similar business that is:

814 (A) a new or renewing licensee licensed by a city, town, or county; and  
 815 (B) engaged in the retail sale of beer for consumption off the premises of the licensee;  
 816 (d) "off-premise beer retailer" is as defined in Section 32A-1-105; and  
 817 ~~(c)~~ (e) "seminar provider" means a person other than the division who provides an  
 818 alcohol training and education seminar meeting the requirements of this section.

819 (2) (a) This section applies to ~~a person~~ an individual who, as defined by the board by  
 820 rule:

- 821 (i) manages operations at the premises of a licensee engaged in the retail sale of  
 822 alcoholic beverages for consumption on the premises of the licensee;
- 823 (ii) supervises the serving of alcoholic beverages to a customer for consumption on the  
 824 premises of a licensee; ~~or~~
- 825 (iii) serves alcoholic beverages to a customer for consumption on the premises of a  
 826 licensee~~[-];~~
- 827 (iv) directly supervises the sale of beer to a customer for consumption off the premises  
 828 of an off-premise beer retailer licensee; or
- 829 (v) sells beer to a customer for consumption off the premises of an off-premise beer  
 830 retailer licensee.

831 (b) ~~A person~~ If the individual does not have a valid certificate that the individual has  
 832 completed an alcohol training and education seminar, an individual described in Subsection  
 833 (2)(a) shall:

- 834 (i) (A) complete an alcohol training and education seminar within 30 days of the  
 835 following if the individual is described in Subsections (2)(a)(i) through (iii):  
 836 ~~(A)~~ (I) if the [person] individual is an employee, the day the [person] individual  
 837 begins employment;
- 838 ~~(B)~~ (II) if the [person] individual is an independent contractor, the day the [person]  
 839 individual is first hired; or
- 840 ~~(C)~~ (III) if the [person] individual holds an ownership interest in the licensee, the day  
 841 that [person] the individual first engages in an activity that would result in that [person]

842 individual being required to complete an alcohol training and education seminar; ~~[and]~~ or  
843 (B) complete an alcohol training and education seminar within the time periods  
844 specified in Subsection 32A-10-103(1) if the individual is described in Subsections (2)(a)(iv)  
845 and (v); and

846 (ii) pay a fee:  
847 (A) to the seminar provider; and  
848 (B) that is equal to or greater than the amount established under Subsection (4)(h).

849 ~~[(c) Notwithstanding Subsection (2)(b)(i)(C), a person described in Subsection~~  
850 ~~(2)(b)(i)(C) shall complete an alcohol training and education seminar by no later than July 31,~~  
851 ~~2001, if as of May 1, 2001 the person:]~~

852 ~~[(i) holds an ownership interest in the licensee; and]~~  
853 ~~[(ii) has engaged in an activity that would result in that person being required to~~  
854 ~~complete an alcohol training and education seminar.]~~

855 (c) An individual shall have a valid certificate that the individual completed an alcohol  
856 training and education seminar within the time period provided in this Subsection (2) to engage  
857 in an activity described in Subsection (2)(a).

858 (d) A certificate that an individual has completed an alcohol training and education  
859 seminar is valid for:

860 (i) three years from the day on which the certificate is issued for an individual  
861 described in Subsection (2)(a)(i), (ii), or (iii); and

862 (ii) five years from the day on which the certificate is issued for an individual described  
863 in Subsection (2)(a)(iv) or (v).

864 (3) (a) A licensee may not permit ~~[a person]~~ an individual who is not in compliance  
865 with Subsection (2) to:

866 (i) serve or supervise the serving of alcoholic beverages to a customer for consumption  
867 on the premises of the licensee; ~~[or]~~

868 (ii) engage in any activity that would constitute managing operations at the premises of  
869 a licensee[-] that engages in the retail sale of alcoholic beverages for consumption on the

870 premises of the licensee;

871 (iii) directly supervise the sale of beer to a customer for consumption off the premises  
872 of an off-premise beer retailer licensee; or

873 (iv) sell beer to a customer for consumption off the premises of an off-premise beer  
874 retailer licensee.

875 (b) A licensee that violates Subsection (3)(a) is subject to Section 32A-1-401.

876 (4) The division shall:

877 (a) (i) provide alcohol training and education seminars; or

878 (ii) certify one or more seminar providers;

879 (b) establish the curriculum for an alcohol training and education seminar that includes  
880 the following subjects:

881 (i) (A) alcohol as a drug; and

882 (B) alcohol's effect on the body and behavior;

883 (ii) recognizing the problem drinker or signs of intoxication;

884 (iii) an overview of state alcohol laws related to responsible beverage sale or service,  
885 as determined in consultation with the Department of Alcoholic Beverage Control;

886 (iv) dealing with the problem customer, including ways to terminate sale or service;

887 and

888 (v) for those supervising or engaging in the retail sale of alcoholic beverages for  
889 consumption on the premises of a licensee, alternative means of transportation to get the  
890 customer safely home;

891 (c) recertify each seminar provider every three years;

892 (d) monitor compliance with the curriculum described in Subsection (4)(b);

893 (e) maintain for at least [~~three~~] five years a record of every person who has completed  
894 an alcohol training and education seminar;

895 (f) provide the information described in Subsection (4)(e) on request to:

896 (i) the Department of Alcoholic Beverage Control; [~~or~~]

897 (ii) law enforcement; or



898 (iii) a person licensed by the state or a local government to sell alcoholic beverages;

899 (g) provide the Department of Alcoholic Beverage Control on request a list of any  
900 seminar provider certified by the division; and

901 (h) establish a fee amount for each person attending an alcohol training and education  
902 seminar that is sufficient to offset the division's cost of administering this section.

903 (5) The board shall by rule made in accordance with Title 63, Chapter 46a, Utah  
904 Administrative Rulemaking Act:

905 (a) define what constitutes under this section [~~a person~~] an individual who:

906 (i) manages operations at the premises of a licensee engaged in the retail sale of  
907 alcoholic beverages for consumption on the premises of the licensee;

908 (ii) supervises the serving of alcoholic beverages to a customer for consumption on the  
909 premises of a licensee; [~~or~~]

910 (iii) serves alcoholic beverages to a customer for consumption on the premises of a  
911 licensee;

912 (iv) directly supervises the sale of beer to a customer for consumption off the premises  
913 of an off-premise retailer beer licensee; or

914 (v) sells beer to a customer for consumption off the premises of an off-premise beer  
915 retailer licensee;

916 (b) establish criteria for certifying and recertifying a seminar provider; and

917 (c) establish guidelines for the manner in which an instructor provides an alcohol  
918 education and training seminar.

919 (6) A seminar provider shall:

920 (a) obtain recertification by the division every three years;

921 (b) ensure that an instructor used by the seminar provider:

922 (i) follows the curriculum established under this section; and

923 (ii) conducts an alcohol training and education seminar in accordance with the  
924 guidelines established by rule;

925 (c) ensure that any information provided by the seminar provider or instructor of a

926 seminar provider is consistent with:

927       (i) the curriculum established under this section; and

928       (ii) this section;

929       (d) provide the division with the names of all persons who complete an alcohol training

930 and education seminar provided by the seminar provider;

931       (e) (i) collect a fee for each person attending an alcohol training and education seminar

932 in accordance with Subsection (2); and

933       ~~[(f)]~~ (ii) forward to the division the portion of the fee that is equal to the amount

934 described in Subsection (4)(h)~~[-];~~ and

935       (f) issue a certificate to an individual that completes an alcohol training and education

936 seminar provided by the seminar provider.

937       (7) (a) If after a hearing conducted in accordance with Title 63, Chapter 46b,

938 Administrative Procedures Act, the division finds that a seminar provider violates this section

939 or that an instructor of the seminar provider violates this section, the division may:

940       (i) suspend the certification of the seminar provider for a period not to exceed 90 days;

941       (ii) revoke the certification of the seminar provider;

942       (iii) require the seminar provider to take corrective action regarding an instructor; or

943       (iv) prohibit the seminar provider from using an instructor until such time that the

944 seminar provider establishes to the satisfaction of the division that the instructor is in

945 compliance with Subsection (6)(b).

946       (b) The division may certify a seminar provider whose certification is revoked:

947       (i) no sooner than 90 days from the date the certification is revoked; and

948       (ii) if the seminar provider establishes to the satisfaction of the division that the

949 seminar provider will comply with this section.

950       Section 7. Section **77-39-101** is amended to read:

951       **77-39-101. Investigation of sales of alcohol and tobacco to under age persons.**

952       (1) (a) A peace officer, as defined by Title 53, Chapter 13, Peace Officer

953 Classifications, may investigate the possible violation of;

954 (i) ~~Section 32A-12-203 [or Section 76-10-104 by requesting a person under the legal~~  
 955 ~~age to attempt to purchase alcohol as provided in Section 32A-12-203, or tobacco as provided~~  
 956 ~~in Section 76-10-104, to enter into and attempt to purchase or make a purchase of alcohol or~~  
 957 ~~tobacco products from a retail establishment.] by requesting an individual under the age of 21~~  
 958 ~~years to enter into and attempt to purchase or make a purchase of alcohol from a retail~~  
 959 ~~establishment; or~~

960 (ii) Section 76-10-104 by requesting an individual under the age of 19 years to enter  
 961 into and attempt to purchase or make a purchase from a retail establishment of:

962 (A) a cigar;

963 (B) a cigarette; or

964 (C) tobacco in any form.

965 (b) A peace officer who is present at the site of a proposed purchase shall direct,  
 966 supervise, and monitor the ~~[person]~~ individual requested to make the purchase.

967 (c) Immediately following ~~[the]~~ a purchase or attempted purchase or as soon as  
 968 practical the supervising peace officer shall inform the cashier and the proprietor or manager of  
 969 the retail establishment that the attempted purchaser was under the legal age to purchase:

970 (i) alcohol; or

971 (ii) (A) a cigar;

972 (B) a cigarette; or

973 (C) tobacco in any form.

974 (d) If a citation or information is issued, it shall be issued within seven days of the  
 975 purchase.

976 (2) (a) If ~~[a person]~~ an individual under the age of 18 years old is requested to attempt a  
 977 purchase, a written consent of that ~~[person's]~~ individual's parent or guardian shall be obtained  
 978 prior to that ~~[person]~~ individual participating in any attempted purchase.

979 (b) ~~[A person]~~ An individual requested by the peace officer to attempt a purchase may:

980 (i) be a trained volunteer; or

981 (ii) receive payment, but may not be paid based on the number of successful purchases

982 of alcohol or tobacco.

983 (3) The ~~[person]~~ individual requested by the peace officer to attempt a purchase and  
984 anyone accompanying the ~~[person]~~ individual attempting a purchase may not during the  
985 attempted purchase misrepresent the age of the ~~[person]~~ individual by false or misleading  
986 identification documentation in attempting the purchase.

987 (4) ~~[A person]~~ An individual requested to attempt to purchase ~~[alcohol or tobacco]~~ or  
988 make a purchase pursuant to this section is immune from prosecution, suit, or civil liability for  
989 the purchase of, attempted purchase of, or possession of alcohol ~~[or], a cigar, a cigarette, or~~  
990 tobacco in any form if a peace officer directs, supervises, and monitors the ~~[person]~~ individual.

991 (5) (a) Except as provided in Subsection (5)(b), a purchase attempted under this section  
992 shall be conducted:

993 (i) on a random basis~~[-, but not more often than four times]; and~~

994 (ii) within a 12-month period at any one retail establishment location~~[-]~~ not more often  
995 than:

996 (A) four times for the attempted purchase of:

997 (I) a cigar;

998 (II) a cigarette; or

999 (III) tobacco in any form; and

1000 (B) four times for the attempted purchase of alcohol.

1001 (b) Nothing in this section shall prohibit an investigation under this section if:

1002 (i) there is reasonable suspicion to believe the retail establishment has sold alcohol  
1003 ~~[or], a cigar, a cigarette, or tobacco~~ in any form to ~~[a person]~~ an individual under the age  
1004 established by Section 32A-12-203 or 76-10-104; and

1005 (ii) the supervising peace officer makes a written record of the grounds for the  
1006 reasonable suspicion.

1007 (6) (a) The peace officer exercising direction, supervision, and monitoring of the  
1008 attempted purchase shall make a report of the attempted purchase, whether or not a purchase  
1009 was made.

- 1010 (b) The report required by this Subsection (6) shall include:
- 1011 (i) the name of the supervising peace officer;
- 1012 (ii) the name of the [person] individual attempting the purchase;
- 1013 (iii) a photograph of the [person] individual attempting the purchase showing how that
- 1014 [person] individual appeared at the time of the attempted purchase;
- 1015 (iv) the name and description of the cashier or proprietor from whom the [person]
- 1016 individual attempted the purchase;
- 1017 (v) the name and address of the retail establishment; and
- 1018 (vi) the date and time of the attempted purchase.

1019 **Section 8. Appropriations -- Media and education campaigns.**

1020 There is appropriated:

1021 (1) as an ongoing appropriation subject to future budget constraints, \$543,750 from the

1022 General Fund for fiscal year 2006-07, to the Department of Public Safety to be used by the

1023 Highway Safety Office as provided in Section 32A-10-103; and

1024 (2) \$1,631,250 from the General Fund for fiscal year 2006-07 only, to the Department

1025 of Alcoholic Beverage Control to direct and fund one or more media and education campaigns

1026 designed to reduce underage drinking in cooperation with the Utah Substance Abuse and

1027 Anti-Violence Coordinating Council as follows:

1028 (a) the coordinating council shall:

1029 (i) provide ongoing oversight of any media and education campaign funded under this

1030 Subsection (2);

1031 (ii) create an underage drinking workgroup pursuant to guidelines made by the

1032 coordinating council related to the membership and duties of the underage drinking workgroup;

1033 (iii) make guidelines for how funds appropriated for a media and education campaign

1034 can be used;

1035 (iv) require in the guidelines established pursuant to this Subsection (2) that a media

1036 and education campaign funded under this Subsection (2) is carefully researched and

1037 developed, and appropriate for target groups; and

1038           (v) approve plans submitted by the Department of Alcoholic Beverage Control in  
1039 accordance with this Subsection (2);  
1040           (b) the Department of Alcoholic Beverage Control shall:  
1041           (i) in cooperation with the underage drinking workgroup created under Subsection  
1042 (2)(a), prepare and submit a plan to the coordinating council detailing the intended use of the  
1043 monies appropriated under this Subsection (2);  
1044           (ii) upon approval of the plan by the coordinating council, conduct the media and  
1045 education campaign in accordance with the guidelines made by the coordinating council; and  
1046           (iii) report to the coordinating council by no later than the October 1, 2007, on the  
1047 media and education campaigns conducted under this Subsection (2); and  
1048           (c) the Legislature intends for the appropriation under this Subsection (2) to be  
1049 nonlapsing.  
1050           Section 9. **Effective date.**  
1051           This bill takes effect on July 1, 2006.