

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

7
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;
- 18 ▶ modifies the distribution and use of monies appropriated from the Alcoholic
19 Beverage Enforcement and Treatment Restricted Account including funding certain
20 enforcement, media, and education activities;
- 21 ▶ modifies provisions related to alcohol training and education seminars including:
- 22 • training for persons who sell or directly supervise the sale of beer for an
23 off-premise beer retailer that sells beer for off-premise consumption; and
- 24 • penalties for certain individuals failing to complete an alcohol training and
25 education seminar;
- 26 ▶ imposes requirements on off-premise beer retailers;
- 27 ▶ requires the creation of a tracking system for violations related to the sale of



- 28 alcoholic beverages to a minor;
- 29 ▶ addresses penalties related to the sale of alcoholic beverages to a minor;
- 30 ▶ modifies the amounts deposited into and required to be appropriated from the
- 31 Alcoholic Beverage Enforcement and Treatment Restricted Account;
- 32 ▶ modifies the duties of certain state agencies;
- 33 ▶ modifies provisions related to the investigation of the sales of alcohol or tobacco to
- 34 underaged individuals; and
- 35 ▶ makes technical changes.

36 Monies Appropriated in this Bill:

37 This bill appropriates:

- 38 ▶ \$4,350,000 from the Alcoholic Beverage Enforcement and Treatment Restricted
- 39 Account for fiscal year 2006-07 only, to the State Tax Commission for distribution
- 40 to municipalities and counties as provided in Section 32A-1-115;
- 41 ▶ \$543,750 from the Alcoholic Beverage Enforcement and Treatment Restricted
- 42 Account for fiscal year 2006-07 only, to the Department of Public Safety to be used
- 43 by the Highway Safety Office as provided in Section 32A-1-115; and
- 44 ▶ \$1,631,250 from the Alcoholic Beverage Enforcement and Treatment Restricted
- 45 Account for fiscal year 2006-07 only, to the Department of Alcoholic Beverage
- 46 Control to be used as provided in Section 32A-1-115.

47 Other Special Clauses:

48 None

49 Utah Code Sections Affected:

50 AMENDS:

- 51 **32A-1-105**, as last amended by Chapter 152, Laws of Utah 2005
- 52 **32A-1-115**, as last amended by Chapter 2, Laws of Utah 2005
- 53 **32A-1-401**, as last amended by Chapter 314, Laws of Utah 2003
- 54 **32A-10-101**, as last amended by Chapter 314, Laws of Utah 2003
- 55 **59-15-109**, as last amended by Chapter 5, Laws of Utah 2003, Second Special Session
- 56 **62A-15-401**, as renumbered and amended by Chapter 8, Laws of Utah 2002, Fifth
- 57 Special Session
- 58 **63-25a-203**, as last amended by Chapter 14, Laws of Utah 2005, First Special Session

59 77-39-101, as last amended by Chapters 282 and 319, Laws of Utah 1998

60 ENACTS:

61 32A-10-103, Utah Code Annotated 1953



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

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

65 **32A-1-105. Definitions.**

66 As used in this title:

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

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

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

73 (i) contain:

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

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

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

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

81 (i) extracts;

82 (ii) vinegars;

83 (iii) ciders;

84 (iv) essences;

85 (v) tinctures;

86 (vi) food preparations; or

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

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

89 (a) at which alcoholic beverages are:

- 90 (i) stored; or
- 91 (ii) dispensed; or
- 92 (b) from which alcoholic beverages are served.
- 93 (5) (a) "Beer" means any product that ~~contains~~:
- 94 (i) contains 63/100 of 1% of alcohol by volume or 1/2 of 1% of alcohol by weight, but
- 95 not more than 4% of alcohol by volume or 3.2% by weight; and
- 96 (ii) is obtained by fermentation, infusion, or decoction of any malted grain.
- 97 (b) Beer may or may not contain hops or other vegetable products.
- 98 (c) Beer includes a product that:
- 99 (i) contains alcohol in the percentages described in Subsection (5)(a); and
- 100 (ii) is referred to as:
- 101 (A) malt liquor;
- 102 (B) malted beverages; or
- 103 (C) malt coolers.
- 104 (6) (a) "Beer retailer" means any business establishment that is:
- 105 (i) engaged, primarily or incidentally, in the retail sale of beer to public patrons,
- 106 whether for consumption on or off the establishment's premises; and
- 107 (ii) licensed to sell beer by:
- 108 (A) the commission;
- 109 (B) a local authority; or
- 110 (C) both the commission and a local authority.
- 111 (b) "Off-premise beer retailer" means a general food store or similar business that is
- 112 engaged in the retail sale of beer to public patrons for consumption off the beer retailer's
- 113 premises.
- 114 ~~(b)~~ (c) (i) "On-premise beer retailer" means any beer retailer engaged, primarily or
- 115 incidentally, in the sale of beer to public patrons for consumption on the beer retailer's
- 116 premises.
- 117 (ii) "On-premise beer retailer" includes a tavern.
- 118 (7) "Billboard" means any public display used to advertise including:
- 119 (a) a light device;
- 120 (b) a painting;

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

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

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

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

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

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

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

196 (26) "Local authority" means:

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

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

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

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

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

207 (i) (A) under the control of the United States Department of Defense; or

208 (B) of the National Guard;

209 (ii) that is located within the state; and

210 (iii) including any leased facility.

211 (b) "Military installation" does not include any facility used primarily for:

212 (i) civil works;

213 (ii) rivers and harbors projects; or

- 214 (iii) flood control projects.
- 215 (30) "Minor" means any person under the age of 21 years.
- 216 (31) "Outlet" means a location other than a state store or package agency where
217 alcoholic beverages are sold pursuant to a license issued by the commission.
- 218 (32) "Package" means any of the following containing liquor:
 - 219 (a) a container;
 - 220 (b) a bottle;
 - 221 (c) a vessel; or
 - 222 (d) other receptacle.
- 223 (33) "Package agency" means a retail liquor location operated under a contractual
224 agreement with the department, by a person other than the state, who is authorized by the
225 commission to sell package liquor for consumption off the premises of the agency.
- 226 (34) "Package agent" means any person permitted by the commission to operate a
227 package agency pursuant to a contractual agreement with the department to sell liquor from
228 premises that the package agent shall provide and maintain.
- 229 (35) "Permittee" means any person issued a permit by the commission to perform acts
230 or exercise privileges as specifically granted in the permit.
- 231 (36) "Person" means any individual, partnership, firm, corporation, limited liability
232 company, association, business trust, or other form of business enterprise, including a receiver
233 or trustee, and the plural as well as the singular number, unless the intent to give a more limited
234 meaning is disclosed by the context.
- 235 (37) "Premises" means any building, enclosure, room, or equipment used in connection
236 with the sale, storage, service, manufacture, distribution, or consumption of alcoholic products,
237 unless otherwise defined in this title or in the rules adopted by the commission.
- 238 (38) "Prescription" means a writing in legal form, signed by a physician or dentist and
239 given to a patient for obtaining an alcoholic beverage for medicinal purposes only.
- 240 (39) (a) "Privately hosted event" or "private social function" means a specific social,
241 business, or recreational event for which an entire room, area, or hall has been leased or rented,
242 in advance by an identified group, and the event or function is limited in attendance to people
243 who have been specifically designated and their guests.
- 244 (b) "Privately hosted event" and "private social function" does not include events or

245 functions to which the general public is invited, whether for an admission fee or not.

246 (40) "Proof of age" means:

247 (a) an identification card;

248 (b) an identification that:

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

250 (ii) is issued in accordance with the laws of a state other than Utah in which the

251 identification is issued;

252 (iii) includes date of birth; and

253 (iv) has a picture affixed;

254 (c) a valid driver license certificate that:

255 (i) includes date of birth;

256 (ii) has a picture affixed; and

257 (iii) is issued:

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

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

260 (d) a military identification card that:

261 (i) includes date of birth; and

262 (ii) has a picture affixed; or

263 (e) a valid passport.

264 (41) (a) "Public building" means any building or permanent structure owned or leased

265 by the state, a county, or local government entity that is used for:

266 (i) public education;

267 (ii) transacting public business; or

268 (iii) regularly conducting government activities.

269 (b) "Public building" does not mean or refer to any building owned by the state or a

270 county or local government entity when the building is used by anyone, in whole or in part, for

271 proprietary functions.

272 (42) "Representative" means an individual who is compensated by salary, commission,

273 or any other means for representing and selling the alcoholic beverage products of a

274 manufacturer, supplier, or importer of liquor, wine, or heavy beer.

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

276 (44) "Restaurant" means any business establishment:
277 (a) where a variety of foods is prepared and complete meals are served to the general
278 public;
279 (b) located on a premises having adequate culinary fixtures for food preparation and
280 dining accommodations; and
281 (c) that is engaged primarily in serving meals to the general public.

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

284 (46) (a) "Sample" includes:
285 (i) a department sample; and
286 (ii) an industry representative sample.

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

289 (c) "Industry representative sample" means liquor, wine, and heavy beer that has been
290 placed in the possession of the department for testing, analysis, and sampling by local industry
291 representatives on the premises of the department to educate the local industry representatives
292 of the quality and characteristics of the product.

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

295 (b) "School" does not include:
296 (i) a nursery school;
297 (ii) an infant day care center; or
298 (iii) a trade or technical school.

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

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

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

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

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

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

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

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

315 (ii) operated by state employees.

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

317 (i) licensee;

318 (ii) permittee; or

319 (iii) package agency.

320 (53) "Supplier" means any person selling alcoholic beverages to the department.

321 (54) (a) "Tavern" means any business establishment that is:

322 (i) engaged primarily in the retail sale of beer to public patrons for consumption on the
323 establishment's premises; and

324 (ii) licensed to sell beer under Chapter 10, Part 2, On-Premise Beer Retailer Licenses.

325 (b) "Tavern" includes the following if the revenue from the sale of beer exceeds the
326 revenue of the sale of food, although food need not be sold in the establishment:

327 (i) a beer bar;

328 (ii) a parlor;

329 (iii) a lounge;

330 (iv) a cabaret; or

331 (v) a nightclub.

332 (55) "Temporary domicile" means the principal place of abode within Utah of a person
333 who does not have a present intention to continue residency within Utah permanently or
334 indefinitely.

335 (56) "Unsaleable liquor merchandise" means merchandise that:

336 (a) is unsaleable because the merchandise is:

337 (i) unlabeled;

- 338 (ii) leaky;
- 339 (iii) damaged;
- 340 (iv) difficult to open; or
- 341 (v) partly filled;
- 342 (b) is in a container:
 - 343 (i) having faded labels or defective caps or corks;
 - 344 (ii) in which the contents are:
 - 345 (A) cloudy;
 - 346 (B) spoiled; or
 - 347 (C) chemically determined to be impure; or
 - 348 (iii) that contains:
 - 349 (A) sediment; or
 - 350 (B) any foreign substance; or
 - 351 (c) is otherwise considered by the department as unfit for sale.

352 (57) "Visitor" means an individual that in accordance with Section 32A-5-107 holds
 353 limited privileges in a private club by virtue of a visitor card.

354 (58) "Warehouser" means any person, other than a licensed manufacturer, engaged in
 355 the importation for sale, storage, or distribution of liquor regardless of amount.

356 (59) "Wholesaler" means any person engaged in the importation for sale, or in the sale
 357 of beer in wholesale or jobbing quantities to retailers, other than a small brewer selling beer
 358 manufactured by that brewer.

359 (60) (a) "Wine" means any alcoholic beverage obtained by the fermentation of the
 360 natural sugar content of fruits, plants, honey, or milk, or any other like substance, whether or
 361 not other ingredients are added.

362 (b) "Wine" is considered "liquor" for purposes of this title, except as otherwise
 363 provided in this title.

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

365 **32A-1-115. Alcoholic Beverage Enforcement and Treatment Restricted Account**
 366 **-- Distribution to municipalities and counties.**

367 (1) As used in this section:

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

369 Account created in this section.

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

371 (i) a violation of:

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

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

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

375 (II) Section 76-5-207; or

376 (ii) an offense involving the:

377 (A) illegal sale of alcohol;

378 (B) illegal distribution of alcohol;

379 (C) illegal transportation of alcohol;

380 (D) illegal possession of alcohol; or

381 (E) illegal consumption of alcohol.

382 (c) "Annual conviction time period" means the time period that:

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

384 (ii) immediately precedes the fiscal year for which an appropriation under this section

385 is made.

386 (d) "Coordinating council" means the Utah Substance Abuse and Anti-Violence

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

388 (e) "Municipality" means:

389 (i) a city; or

390 (ii) a town.

391 (2) (a) There is created in the General Fund a restricted account called the "Alcoholic

392 Beverage Enforcement and Treatment Restricted Account."

393 (b) The account shall be funded from:

394 (i) amounts deposited by the state treasurer in accordance with Section 59-15-109;

395 (ii) any appropriations made to the account by the Legislature; and

396 (iii) interest described in Subsection (2)(c).

397 (c) Interest earned on the account shall be deposited into the account.

398 (d) (i) ~~[The]~~ Consistent with the policies provided in Subsection 32A-1-104(4)(b), the

399 revenues in the account shall be used for statewide public purposes including promoting the

400 reduction of the harmful effects of over consumption of alcoholic beverages by adults and
401 alcohol consumption by minors by funding exclusively [for]:

402 (A) except as provided in Subsection (2)(d)(ii), programs or projects related to
403 prevention, treatment, detection, prosecution, and control of violations of:

404 (I) this title; and

405 (II) other offenses in which alcohol is a contributing factor [except as provided in
406 Subsection (2)(d)(ii)]; and

407 (B) activities funded under Subsection (3)(b)(ii).

408 (ii) The portion distributed under [~~this section~~] Subsection (3)(b)(i) to counties may
409 also be used for the confinement or treatment of persons arrested for or convicted of offenses in
410 which alcohol is a contributing factor.

411 (iii) Any municipality or county entitled to receive funds under Subsection (3)(b)(i)
412 shall use the funds exclusively as required by [~~this~~] Subsection (2)(d)(i)(A) or (2)(d)(ii).

413 (iv) The appropriations provided for under Subsection (3)(b)(i) are:

414 (A) intended to supplement the budget of the appropriate agencies of each municipality
415 and county within the state to enable the municipalities and counties to more effectively fund
416 the programs and projects described in [~~this~~] Subsection (2)(d)(i)(A); and

417 (B) not intended to replace funds that would otherwise be allocated for the programs
418 and projects in [~~this~~] Subsection (2)(d)(i)(A).

419 (3) (a) The revenues deposited into the account shall be distributed [~~to municipalities~~
420 ~~and counties~~]:

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

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

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

426 (i) 2/3 of the amount shall be distributed according to the following formula:

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

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

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

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

436 (ii) (A) 1/12 shall be appropriated to the Highway Safety Office of the Department of
437 Pubic Safety to fund and administer a program to:

438 (I) reimburse a municipal or county law enforcement agency:

439 (Aa) for the actual costs of an alcohol-related compliance check investigation
440 conducted pursuant to Section 77-39-101;

441 (Bb) for any administrative costs associated with reporting the compliance check
442 investigation described in Subsection (3)(b)(ii)(A)(I)(Aa);

443 (Cc) if the municipal or county law enforcement agency completes and submits to the
444 Highway Safety Office a report within 90 days of the compliance check investigation described
445 in Subsection (3)(b)(ii)(A)(I)(Aa) in a format required by the Highway Safety Office; and

446 (Dd) in the order that the municipal or county law enforcement agency submits the
447 report required by Subsection (3)(b)(ii)(A)(I)(Cc) until the amount distributed under this
448 Subsection (3)(b)(ii)(A) is spent;

449 (II) develop and operate a system to collect, analyze, maintain, track, and disseminate
450 violation history information pursuant to Subsection 32A-10-103(6); and

451 (III) have the Highway Safety Office report to the coordinating council by no later than
452 October 1 following a fiscal year on the following funded during the prior fiscal year:

453 (Aa) all compliance check investigations reimbursed under Subsection (3)(b)(ii)(A)(I);
454 and

455 (Bb) the collection, analysis, maintenance, tracking, and dissemination of violation
456 history information provided in Subsection (3)(b)(ii)(A)(II); and

457 (B) 1/4 shall be appropriated to the Department of Alcoholic Beverage Control to
458 direct and fund one or more media and education campaigns designed to reduce underage
459 drinking in cooperation with the coordinating council as follows:

460 (I) the coordinating council shall:

461 (Aa) provide ongoing oversight of any media and education campaign funded under

462 this Subsection (3)(b)(ii)(B):

463 (Bb) create an underage drinking workgroup pursuant to guidelines made by the
464 coordinating council related to the membership and duties of the underage drinking workgroup;

465 (Cc) make guidelines for how funds appropriated for a media and education campaign
466 can be used;

467 (Dd) require in the guidelines established pursuant to this Subsection (3)(b)(ii)(B)(I)
468 that a media and education campaign funded under this Subsection (3)(b)(ii)(B) is carefully
469 researched and developed, and appropriate for target groups; and

470 (Ee) approve plans submitted by the Department of Alcoholic Beverage Control in
471 accordance with Subsection (3)(b)(ii)(B)(II); and

472 (II) the Department of Alcoholic Beverage Control shall:

473 (Aa) in cooperation with the underage drinking workgroup created under Subsection
474 (3)(b)(ii)(B)(I), annually prepare and submit a plan to the coordinating council detailing the
475 intended use of the monies appropriated under this Subsection (3)(b)(ii)(B):

476 (Bb) upon approval of the plan by the coordinating council, conduct the media and
477 education campaign in accordance with the guidelines made by the coordinating council; and

478 (Cc) report to the coordinating council by no later than the October 1 following a fiscal
479 year on the media and education campaigns conducted under Subsection (3)(b)(ii)(B) that were
480 funded during the prior fiscal year.

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

483 (ii) The State Tax Commission:

484 (A) may not distribute the monies the municipality would receive under Subsection
485 (3)(b)(i) but for the municipality not having a law enforcement agency to that municipality; and

486 (B) shall distribute the monies that the municipality would have received under
487 Subsection (3)(b)(i) but for it not having a law enforcement agency to the county in which the
488 municipality is located for use by the county in accordance with this section.

489 (iii) Notwithstanding Subsections (3)(c)(i) and (ii), if the coordinating council finds
490 that a municipality described in Subsection (3)(c)(i) demonstrates that the municipality can use
491 the monies that the municipality is otherwise eligible to receive under Subsection (3)(b)(i) in
492 accordance with ~~[this section]~~ Subsection (2)(d)(i), the coordinating council may direct the

493 State Tax Commission to distribute the money to the municipality.

494 (4) To determine the distributions required by Subsection (3)(b)~~[(ii)]~~(i)(B), the State
495 Tax Commission shall annually:

496 (a) for an annual conviction time period:

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

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

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

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

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

507 (c) multiply the amount calculated under Subsection (4)(b), by the number of
508 convictions obtained in each municipality and county during the annual conviction time period
509 for alcohol-related offenses.

510 (5) For purposes of this section:

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

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

514 (ii) includes all:

515 (A) private clubs;

516 (B) restaurants;

517 (C) limited restaurants;

518 (D) on-premise banquet licenses;

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

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

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

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

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

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

525 (c) population figures shall be determined according to the most current population
526 estimates prepared by the Utah Population Estimates Committee;

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

530 (e) a county's population figure under Subsection (3)(b)(~~iv~~)(i)(D) for the 25%
531 distribution to counties only shall be determined with reference to the total population in the
532 county, including that of municipalities;

533 (f) a conviction occurs in the municipality or county that actually prosecutes the
534 offense to judgment; and

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

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

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

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

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

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

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

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

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

553 (8) (a) By not later than January 1 of the fiscal year of appropriation, the State Tax
554 Commission shall annually distribute to each municipality and county the portion of the

555 appropriation that the municipality or county is eligible to receive under [~~this section~~]
556 Subsection (3)(b)(i), except for any municipality or county that the coordinating council
557 notifies the State Tax Commission in accordance with Subsection (7) may not receive a
558 distribution in that fiscal year.

559 (b) (i) The State Tax Commission shall prepare forms for use by municipalities and
560 counties in applying for distributions under [~~this section~~] Subsection (3)(b)(i).

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

564 (9) A municipality or county that receives any monies under [~~this section~~] Subsection
565 (3)(b)(i) during a fiscal year shall by no later than October 1 following the fiscal year:

566 (a) report to the coordinating council:

567 (i) the programs or projects of the municipality or county that receive monies under
568 [~~this section~~] Subsection (3)(b)(i);

569 (ii) if the monies for programs or projects under Subsection (3)(b)(i) were exclusively
570 used as required by Subsection (2)(d)(i);

571 (iii) indicators of whether the programs or projects that receive monies under [~~this~~
572 ~~section~~] Subsection (3)(b)(i) are effective; and

573 (iv) if any monies received under [~~this section~~] Subsection (3)(b)(i) were not expended
574 by the municipality or county; and

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

579 (10) (a) The coordinating council may, by a majority vote:

580 (i) suspend future payments under Subsection (8) to a municipality or county that:

581 (A) does not file a report that meets the requirements of Subsection (9); or

582 (B) the coordinating council finds does not use the monies as required by Subsection

583 (2)(d)(i) on the basis of the report filed by the municipality or county under Subsection (9); and

584 (ii) cancel a suspension under Subsection (10)(a)(i).

585 (b) The State Tax Commission shall:

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

588 (ii) notify the coordinating council of the balance of retained monies under this
589 Subsection (10)(b) after the annual distribution under Subsection (8).

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

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

593 (ii) as grants to:

594 (A) a county;

595 (B) a municipality; or

596 (C) the Department of Public Safety.

597 (b) By not later than May 30 of the fiscal year of the appropriation, the coordinating
598 council shall notify the State Tax Commission of any grants awarded under this Subsection
599 (11).

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

601 (i) upon receiving notice as provided under Subsection (11)(b); and

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

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

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

606 **32A-1-401. Alcohol training and education -- Revocation or suspension of**
607 **licenses.**

608 (1) The commission may suspend, revoke, or not renew the license of any licensee
609 licensed by the commission if any of the following [~~persons~~] individuals, as defined in Section
610 62A-15-401, fail to complete [~~the~~] an alcohol training and education seminar required in
611 Section 62A-15-401:

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

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

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

619 (2) A city, town, or county in which an establishment conducts its business may
620 suspend, revoke, or not renew the business license of the establishment if any ~~[person]~~
621 individual described in Subsection (1) fails to complete ~~[the]~~ an alcohol training and education
622 seminar required in Section 62A-15-401.

623 (3) A local authority that issues an off-premise beer retailer license to a general food
624 store or similar business that is engaged in the retail sale of beer for consumption off the beer
625 retailer's premises may immediately suspend the license if any of the following individuals fail
626 to complete an alcohol training and education seminar required in Sections 32A-10-103 and
627 62A-15-401, an individual who:

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

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

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

633 **32A-10-101. State and local licensing -- Limitations.**

634 (1) Any local authority may:

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

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

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

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

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

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

647 (2) The commission shall issue licenses to sell beer at retail for on-premise

648 consumption as provided in Part 2, On-Premise Beer Retailer Licenses.

649 (3) Each licensee issued a license for on-premise consumption, by the commission
650 under Subsection (2) or by the local authority under Subsection (1), is subject to the operational
651 restrictions provided in Section 32A-10-206, except as otherwise provided.

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

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

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

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

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

667 **32A-10-103. Alcohol training and education for off-premise consumption.**

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

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

675 (ii) sells beer to a customer for consumption off the premises of the off-premise beer
676 retailer licensee.

677 (b) (i) An individual shall complete an alcohol training and education seminar required
678 by Section 62A-15-401 within 30 days of the day on which the individual is employed by an

679 off-premise beer retailer licensee if the individual:

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

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

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

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

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

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

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

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

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

698 (ii) visible above the waist;

699 (iii) bearing the employee's:

700 (A) first or last name;

701 (B) initials; or

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

703 (iv) with the number or letters on the unique identification badge being sufficiently
704 large to be clearly visible and identifiable while engaging in or directly supervising the retail
705 sale of beer.

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

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

709 (A) be available for immediate inspection by:

710 (I) any peace officer; or
711 (II) representative of the local licensing authority; and
712 (B) include the employee's:
713 (I) full name;
714 (II) address; and
715 (III) (Aa) driver license number; or
716 (Bb) similar identification number.
717 (c) A local authority may impose a fine of up to \$250 against any off-premise beer
718 retailer that does not comply or require its employees to comply with this Subsection (3).
719 (4) (a) In addition to any criminal penalties that may be imposed, an individual is
720 subject to the administrative penalties imposed by a local authority described in Subsection
721 (4)(b) if:
722 (i) that individual:
723 (A) completes an alcohol training and education seminar required by Subsection (1);
724 and
725 (B) after completing the alcohol training and education seminar required by Subsection
726 (1), is found in violation of any law involving the sale of an alcoholic beverage to a minor;
727 (ii) the violation described in Subsection (4)(a)(i)(B) is based on conduct that occurs
728 while the individual is on duty as an employee of an off-premise beer retailer licensee; and
729 (iii) the local authority brings an adjudicative proceeding against the individual.
730 (b) If the conditions of Subsection (4)(a) are met, a local authority shall impose the
731 following administrative penalties:
732 (i) upon a first violation, the individual may not sell or directly supervise the sale of
733 beer to a customer for consumption off the premises of the off-premise beer retailer licensee
734 until the individual retakes and completes an alcohol training and education seminar described
735 in Section 62A-15-401;
736 (ii) upon a second violation, the individual may not sell or directly supervise the sale of
737 beer to a customer for consumption off the premises of the off-premise beer retailer licensee
738 until the later of:
739 (A) 90 days from the day on which the administrative penalty is imposed; and
740 (B) the day on which the individual:

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

743 (II) completes any additional training that the local authority may require; and
744 (iii) upon a third or subsequent violation, the individual may not sell or directly
745 supervise the sale of beer to a customer for consumption off the premises of the off-premise
746 beer retailer licensee until the later of:

747 (A) one year from the day on which the administrative penalty is imposed; and
748 (B) the day on which the individual:

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

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

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

755 (A) directly supervise the sale of beer for the off-premise beer retailer licensee; or
756 (B) sell beer for the off-premise beer retailer licensee.

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

759 (5) (a) In addition to any criminal penalties that may be imposed, an off-premise beer
760 retailer licensee is subject to the administrative penalties imposed by a local authority described
761 in Subsection (5)(b) if:

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

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

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

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

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

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

774 (iii) upon a third violation, the off-premise beer retailer licensee shall pay a civil fine of
775 \$500;

776 (iv) upon a fourth or subsequent violation, the off-premise beer retailer licensee shall:
777 (A) pay a civil fine of \$500;
778 (B) have its license to sell beer suspended for a period of 30 consecutive days from the
779 date on which the administrative penalty is imposed; and

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

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

785 (A) the off-premise beer retailer licensee's license to sell beer shall be revoked; and
786 (B) the off-premise beer retailer licensee is not eligible to reapply for a new license for
787 at least six months from the date of revocation.

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

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

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

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

800 (ii) include in the record described in Subsection (6)(a)(i):
801 (A) the name of the individual who committed the violation;
802 (B) the name of the off-premise beer retailer licensee for whom the individual was

803 employed at the time of the violation; and
804 (C) the date of the adjudication of the violation; and
805 (iii) provide the Highway Safety Office of the Department of Public Safety within 30
806 days of the date on which a violation is adjudicated the information described in Subsection
807 (6)(a)(ii).
808 (b) (i) The Highway Safety Office shall develop and operate a system to collect,
809 analyze, maintain, track, and disseminate the violation history information received under
810 Subsection (6)(a).
811 (ii) The system described in Subsection (6)(b)(i) shall be made available to:
812 (A) assist a local authority in assessing administrative penalties under Subsection (4);
813 and
814 (B) inform an off-premise beer retailer licensee of an individual who has an
815 administrative violation history under Subsection (4).
816 (iii) The Highway Safety Office shall maintain a record of violation history information
817 received pursuant Subsection (6)(a) until the record is expunged under Subsection (6)(c).
818 (c) (i) A local authority and the Highway Safety Office shall expunge from the records
819 maintained under this Subsection (6) an administrative penalty imposed under Subsection (4)
820 for purposes of determining future administrative penalties under Subsection (4) if the
821 individual has not been found in violation of any law involving the sale of an alcoholic
822 beverage to a minor for a period of 36 consecutive months from the day on which the
823 individual is last adjudicated as violating a law involving the sale of an alcoholic beverage to a
824 minor.
825 (ii) A local authority shall expunge from the records maintained by the local authority
826 an administrative penalty imposed under Subsection (5) against an off-premise beer retailer
827 licensee for purposes of determining future administrative penalties under Subsection (5) if the
828 off-premise beer retailer licensee or any employee of that off-premise beer retailer licensee has
829 not been found in violation of any law involving the sale of an alcoholic beverage to a minor
830 for a period of 36 consecutive months from the day on which the off-premise beer retailer
831 licensee or its employee is last adjudicated as violating a law involving the sale of an alcoholic
832 beverage to a minor.
833 (7) (a) A local authority shall conduct a hearing if an off-premise beer retailer licensee

834 or individual identified in Subsection (1) requests a hearing before the local authority.

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

837 (i) notice of the hearing; and

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

839 Section 6. Section **59-15-109** is amended to read:

840 **59-15-109. Tax moneys to be paid to state treasurer.**

841 (1) Taxes collected under this chapter shall be paid by the commission to the state
842 treasurer daily for deposit as follows:

843 [~~(a) for fiscal year 2003-04:~~]

844 [~~(i) \$2,525,666 shall be deposited into the Alcoholic Beverage Enforcement and~~
845 ~~Treatment Restricted Account created in Section 32A-1-115; and]~~

846 [~~(ii) the revenue collected in excess of \$2,525,666 shall be deposited into the General~~
847 ~~Fund;]~~

848 [~~(b) for fiscal year 2004-05:~~]

849 [~~(i) \$3,133,777 shall be deposited into the Alcoholic Beverage Enforcement and~~
850 ~~Treatment Restricted Account created in Section 32A-1-115; and]~~

851 [~~(ii) the revenue collected in excess of \$3,133,777 shall be deposited into the General~~
852 ~~Fund;]~~

853 [~~(c)~~] (a) for fiscal year 2005-06:

854 (i) \$3,741,888 shall be deposited into the Alcoholic Beverage Enforcement and
855 Treatment Restricted Account created in Section 32A-1-115; and

856 (ii) the revenue collected in excess of \$3,741,888 shall be deposited into the General
857 Fund; and

858 [~~(d) for fiscal year 2006-07:~~]

859 [~~(i) \$4,350,000 shall be deposited into the Alcoholic Beverage Enforcement and~~
860 ~~Treatment Restricted Account created in Section 32A-1-115; and]~~

861 [~~(ii) the revenue collected in excess of \$4,350,000 shall be deposited into the General~~
862 ~~Fund; and]~~

863 [~~(e)~~] (b) beginning with fiscal year [~~2007-08~~] 2006-07 and subject to Subsection (2):

864 (i) the greater of the following shall be deposited into the Alcoholic Beverage

865 Enforcement and Treatment Restricted Account created in Section 32A-1-115:

866 (A) [~~40%~~] 60% of the revenue collected for the fiscal year two years preceding the
867 fiscal year for which the deposit is made; or

868 (B) [~~\$4,350,000~~] \$6,525,000; and

869 (ii) the revenue collected in excess of the amount deposited in accordance with
870 Subsection (1)[~~(c)~~](b)(i) shall be deposited into the General Fund.

871 (2) If the taxes collected under this chapter in a fiscal year are less than the amount
872 described in Subsection (1)(b), the amount deposited into the Alcoholic Beverage Enforcement
873 and Treatment Restricted Account created in Section 32A-1-115 shall be the total amount of
874 taxes collected under this chapter in that fiscal year.

875 [~~(2)~~] (3) (a) Beginning with September 1, 2006, the commission shall notify the entities
876 described in Subsection [~~(2)~~] (3)(b) not later than the September 1 preceding the fiscal year of
877 the deposit of:

878 (i) the amount of the proceeds of the beer excise tax collected in accordance with this
879 section for the fiscal year two years preceding the fiscal year of deposit; and

880 (ii) an amount equal to [~~40%~~] 60% of the amount listed in Subsection [~~(2)~~] (3)(a)(i).

881 (b) The notification required by Subsection [~~(2)~~] (3)(a) shall be sent to:

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

883 (ii) the Legislative Fiscal Analyst.

884 Section 7. Section **62A-15-401** is amended to read:

885 **62A-15-401. Alcohol training and education seminar.**

886 (1) As used in this part:

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

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

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

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

892 and

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

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

896 (A) a new or renewing licensee licensed by a city, town, or county; and
897 (B) engaged in the retail sale of beer for consumption off the premises of the licensee;
898 (d) "off-premise beer retailer" is as defined in Section 32A-1-105; and
899 ~~(c)~~ (e) "seminar provider" means a person other than the division who provides an
900 alcohol training and education seminar meeting the requirements of this section.
901 (2) (a) This section applies to ~~a person~~ an individual who, as defined by the board by
902 rule:
903 (i) manages operations at the premises of a licensee engaged in the retail sale of
904 alcoholic beverages for consumption on the premises of the licensee;
905 (ii) supervises the serving of alcoholic beverages to a customer for consumption on the
906 premises of a licensee; ~~or~~
907 (iii) serves alcoholic beverages to a customer for consumption on the premises of a
908 licensee~~[-];~~
909 (iv) directly supervises the sale of beer to a customer for consumption off the premises
910 of an off-premise beer retailer licensee; or
911 (v) sells beer to a customer for consumption off the premises of an off-premise beer
912 retailer licensee.
913 (b) ~~A person~~ If the individual does not have a valid certificate that the individual has
914 completed an alcohol training and education seminar, an individual described in Subsection
915 (2)(a) shall:
916 (i) (A) complete an alcohol training and education seminar within 30 days of the
917 following if the individual is described in Subsections (2)(a)(i) through (iii):
918 ~~(A)~~ (I) if the [person] individual is an employee, the day the [person] individual
919 begins employment;
920 ~~(B)~~ (II) if the [person] individual is an independent contractor, the day the [person]
921 individual is first hired; or
922 ~~(C)~~ (III) if the [person] individual holds an ownership interest in the licensee, the day
923 that [person] the individual first engages in an activity that would result in that [person]
924 individual being required to complete an alcohol training and education seminar; [and] or
925 (B) complete an alcohol training and education seminar within the time periods
926 specified in Subsection 32A-10-103(1) if the individual is described in Subsections (2)(a)(iv)

927 and (v); and

928 (ii) pay a fee:

929 (A) to the seminar provider; and

930 (B) that is equal to or greater than the amount established under Subsection (4)(h).

931 [~~(c) Notwithstanding Subsection (2)(b)(i)(C), a person described in Subsection~~

932 ~~(2)(b)(i)(C) shall complete an alcohol training and education seminar by no later than July 31,~~

933 ~~2001, if as of May 1, 2001 the person:]~~

934 [~~(i) holds an ownership interest in the licensee; and]~~

935 [~~(ii) has engaged in an activity that would result in that person being required to~~

936 ~~complete an alcohol training and education seminar.]~~

937 (c) An individual shall have a valid certificate that the individual completed an alcohol

938 training and education seminar within the time period provided in this Subsection (2) to engage

939 in an activity described in Subsection (2)(a).

940 (d) A certificate that an individual has completed an alcohol training and education

941 seminar is valid for:

942 (i) three years from the day on which the certificate is issued for an individual

943 described in Subsection (2)(a)(i), (ii), or (iii); and

944 (ii) five years from the day on which the certificate is issued for an individual described

945 in Subsection (2)(a)(iv) or (v).

946 (3) (a) A licensee may not permit [~~a person~~] an individual who is not in compliance

947 with Subsection (2) to:

948 (i) serve or supervise the serving of alcoholic beverages to a customer for consumption

949 on the premises of the licensee; [~~or~~]

950 (ii) engage in any activity that would constitute managing operations at the premises of

951 a licensee[-] that engages in the retail sale of alcoholic beverages for consumption on the

952 premises of the licensee;

953 (iii) directly supervise the sale of beer to a customer for consumption off the premises

954 of an off-premise beer retailer licensee; or

955 (iv) sell beer to a customer for consumption off the premises of an off-premise beer

956 retailer licensee.

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

- 958 (4) The division shall:
- 959 (a) (i) provide alcohol training and education seminars; or
- 960 (ii) certify one or more seminar providers;
- 961 (b) establish the curriculum for an alcohol training and education seminar that includes
- 962 the following subjects:
- 963 (i) (A) alcohol as a drug; and
- 964 (B) alcohol's effect on the body and behavior;
- 965 (ii) recognizing the problem drinker or signs of intoxication;
- 966 (iii) an overview of state alcohol laws related to responsible beverage sale or service,
- 967 as determined in consultation with the Department of Alcoholic Beverage Control;
- 968 (iv) dealing with the problem customer, including ways to terminate sale or service;
- 969 and
- 970 (v) for those supervising or engaging in the retail sale of alcoholic beverages for
- 971 consumption on the premises of a licensee, alternative means of transportation to get the
- 972 customer safely home;
- 973 (c) recertify each seminar provider every three years;
- 974 (d) monitor compliance with the curriculum described in Subsection (4)(b);
- 975 (e) maintain for at least [~~three~~] five years a record of every person who has completed
- 976 an alcohol training and education seminar;
- 977 (f) provide the information described in Subsection (4)(e) on request to:
- 978 (i) the Department of Alcoholic Beverage Control; [~~or~~]
- 979 (ii) law enforcement; or
- 980 (iii) a person licensed by the state or a local government to sell alcoholic beverages;
- 981 (g) provide the Department of Alcoholic Beverage Control on request a list of any
- 982 seminar provider certified by the division; and
- 983 (h) establish a fee amount for each person attending an alcohol training and education
- 984 seminar that is sufficient to offset the division's cost of administering this section.
- 985 (5) The board shall by rule made in accordance with Title 63, Chapter 46a, Utah
- 986 Administrative Rulemaking Act:
- 987 (a) define what constitutes under this section [~~a person~~] an individual who:
- 988 (i) manages operations at the premises of a licensee engaged in the retail sale of

989 alcoholic beverages for consumption on the premises of the licensee;

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

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

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

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

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

999 (c) establish guidelines for the manner in which an instructor provides an alcohol
1000 education and training seminar.

1001 (6) A seminar provider shall:

1002 (a) obtain recertification by the division every three years;

1003 (b) ensure that an instructor used by the seminar provider:

1004 (i) follows the curriculum established under this section; and

1005 (ii) conducts an alcohol training and education seminar in accordance with the
1006 guidelines established by rule;

1007 (c) ensure that any information provided by the seminar provider or instructor of a
1008 seminar provider is consistent with:

1009 (i) the curriculum established under this section; and

1010 (ii) this section;

1011 (d) provide the division with the names of all persons who complete an alcohol training
1012 and education seminar provided by the seminar provider;

1013 (e) (i) collect a fee for each person attending an alcohol training and education seminar
1014 in accordance with Subsection (2); and

1015 [~~(f)~~] (ii) forward to the division the portion of the fee that is equal to the amount
1016 described in Subsection (4)(h)[~~;~~]; and

1017 (f) issue a certificate to an individual that completes an alcohol training and education
1018 seminar provided by the seminar provider.

1019 (7) (a) If after a hearing conducted in accordance with Title 63, Chapter 46b,

1020 Administrative Procedures Act, the division finds that a seminar provider violates this section
1021 or that an instructor of the seminar provider violates this section, the division may:

- 1022 (i) suspend the certification of the seminar provider for a period not to exceed 90 days;
- 1023 (ii) revoke the certification of the seminar provider;
- 1024 (iii) require the seminar provider to take corrective action regarding an instructor; or
- 1025 (iv) prohibit the seminar provider from using an instructor until such time that the
1026 seminar provider establishes to the satisfaction of the division that the instructor is in
1027 compliance with Subsection (6)(b).

- 1028 (b) The division may certify a seminar provider whose certification is revoked:
 - 1029 (i) no sooner than 90 days from the date the certification is revoked; and
 - 1030 (ii) if the seminar provider establishes to the satisfaction of the division that the
1031 seminar provider will comply with this section.

1032 Section 8. Section **63-25a-203** is amended to read:

1033 **63-25a-203. Duties of council.**

1034 (1) The Utah Substance Abuse and Anti-Violence Coordinating Council shall:

- 1035 (a) provide leadership and generate unity for Utah's ongoing efforts to combat
1036 substance abuse and community violence;
- 1037 (b) recommend and coordinate the creation, dissemination, and implementation of a
1038 statewide substance abuse and anti-violence policy;
- 1039 (c) facilitate planning for a balanced continuum of substance abuse and community
1040 violence prevention, treatment, and justice services;
- 1041 (d) promote collaboration and mutually beneficial public and private partnerships;
- 1042 (e) coordinate recommendations made by any subcommittees created under Section
1043 63-25a-202;
- 1044 (f) analyze and provide an objective assessment of all proposed legislation concerning
1045 alcohol and other drug issues and community violence issues; ~~and~~
- 1046 (g) coordinate the implementation of Section 77-18-1.1 and related provisions in
1047 Subsection 77-18-1(5)(d) as provided in Section 63-25a-205.5[-]; and
- 1048 (h) comply with the requirements of Section 32A-1-115 including:
 - 1049 (i) creating the underage drinking workgroup under Section 32A-1-115; and
 - 1050 (ii) establishing the guidelines required by Subsection 32A-1-115(3)(b)(ii)(B).

1051 (2) The council shall meet quarterly or more frequently as determined necessary by the
1052 chair.

1053 (3) The council shall report its recommendations annually to the ~~[commission];~~

1054 (a) State Commission on Criminal and Juvenile Justice;

1055 (b) governor[;];

1056 (c) Legislature[;]; and

1057 (d) judicial council.

1058 Section 9. Section **77-39-101** is amended to read:

1059 **77-39-101. Investigation of sales of alcohol and tobacco to under age persons.**

1060 (1) (a) A peace officer, as defined by Title 53, Chapter 13, Peace Officer

1061 Classifications, may investigate the possible violation of:

1062 (i) Section 32A-12-203 [or Section 76-10-104 by requesting a person under the legal
1063 age to attempt to purchase alcohol as provided in Section 32A-12-203, or tobacco as provided

1064 in Section 76-10-104, to enter into and attempt to purchase or make a purchase of alcohol or

1065 tobacco products from a retail establishment.] by requesting an individual under the age of 21

1066 years to enter into and attempt to purchase or make a purchase of alcohol from a retail

1067 establishment; or

1068 (ii) Section 76-10-104 by requesting an individual under the age of 19 years to enter

1069 into and attempt to purchase or make a purchase from a retail establishment of:

1070 (A) a cigar;

1071 (B) a cigarette; or

1072 (C) tobacco in any form.

1073 (b) A peace officer who is present at the site of a proposed purchase shall direct,

1074 supervise, and monitor the ~~[person]~~ individual requested to make the purchase.

1075 (c) Immediately following ~~[the]~~ a purchase or attempted purchase or as soon as

1076 practical the supervising peace officer shall inform the cashier and the proprietor or manager of

1077 the retail establishment that the attempted purchaser was under the legal age to purchase;

1078 (i) alcohol; or

1079 (ii) (A) a cigar;

1080 (B) a cigarette; or

1081 (C) tobacco in any form.

1082 (d) If a citation or information is issued, it shall be issued within seven days of the
1083 purchase.

1084 (2) (a) If [~~a person~~] an individual under the age of 18 years old is requested to attempt a
1085 purchase, a written consent of that [~~person's~~] individual's parent or guardian shall be obtained
1086 prior to that [~~person~~] individual participating in any attempted purchase.

1087 (b) [~~A person~~] An individual requested by the peace officer to attempt a purchase may:
1088 (i) be a trained volunteer; or
1089 (ii) receive payment, but may not be paid based on the number of successful purchases
1090 of alcohol or tobacco.

1091 (3) The [~~person~~] individual requested by the peace officer to attempt a purchase and
1092 anyone accompanying the [~~person~~] individual attempting a purchase may not during the
1093 attempted purchase misrepresent the age of the [~~person~~] individual by false or misleading
1094 identification documentation in attempting the purchase.

1095 (4) [~~A person~~] An individual requested to attempt to purchase [~~alcohol or tobacco~~] or
1096 make a purchase pursuant to this section is immune from prosecution, suit, or civil liability for
1097 the purchase of, attempted purchase of, or possession of alcohol [~~or~~], a cigar, a cigarette, or
1098 tobacco in any form if a peace officer directs, supervises, and monitors the [~~person~~] individual.

1099 (5) (a) Except as provided in Subsection (5)(b), a purchase attempted under this section
1100 shall be conducted;

1101 (i) on a random basis[~~, but not more often than four times~~]; and

1102 (ii) within a 12-month period at any one retail establishment location[~~-~~] not more often
1103 than:

1104 (A) four times for the attempted purchase of:

1105 (I) a cigar;

1106 (II) a cigarette; or

1107 (III) tobacco in any form; and

1108 (B) four times for the attempted purchase of alcohol.

1109 (b) Nothing in this section shall prohibit an investigation under this section if:

1110 (i) there is reasonable suspicion to believe the retail establishment has sold alcohol
1111 [~~or~~], a cigar, a cigarette, or tobacco in any form to [~~a person~~] an individual under the age
1112 established by Section 32A-12-203 or 76-10-104; and

1113 (ii) the supervising peace officer makes a written record of the grounds for the
1114 reasonable suspicion.

1115 (6) (a) The peace officer exercising direction, supervision, and monitoring of the
1116 attempted purchase shall make a report of the attempted purchase, whether or not a purchase
1117 was made.

1118 (b) The report required by this Subsection (6) shall include:

1119 (i) the name of the supervising peace officer;

1120 (ii) the name of the [person] individual attempting the purchase;

1121 (iii) a photograph of the [person] individual attempting the purchase showing how that
1122 [person] individual appeared at the time of the attempted purchase;

1123 (iv) the name and description of the cashier or proprietor from whom the [person]
1124 individual attempted the purchase;

1125 (v) the name and address of the retail establishment; and

1126 (vi) the date and time of the attempted purchase.

1127 **Section 10. Appropriation.**

1128 There is appropriated:

1129 (1) \$4,350,000 from the Alcoholic Beverage Enforcement and Treatment Restricted
1130 Account for fiscal year 2006-07 only, to the State Tax Commission for distribution to
1131 municipalities and counties as provided in Section 32A-1-115;

1132 (2) \$543,750 from the Alcoholic Beverage Enforcement and Treatment Restricted
1133 Account for fiscal year 2006-07 only, to the Department of Public Safety to be used by the
1134 Highway Safety Office as provided in Section 32A-1-115; and

1135 (3) \$1,631,250 from the Alcoholic Beverage Enforcement and Treatment Restricted
1136 Account for fiscal year 2006-07 only, to the Department of Alcoholic Beverage Control to be
1137 used as provided in Section 32A-1-115.

Legislative Review Note

as of 1-9-06 2:02 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel