

1 **ALCOHOLIC BEVERAGE ENFORCEMENT AND**
2 **TREATMENT RESTRICTED ACCOUNT**
3 **AMENDMENTS**

4 2007 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Michael G. Waddoups**

7 House Sponsor: Kory M. Holdaway

9 **LONG TITLE**

10 **General Description:**

11 This bill modifies the Alcoholic Beverage Control Act to address distribution of monies
12 related to the Alcoholic Beverage Enforcement and Treatment Restricted Account.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ expands the list of state agencies that could be awarded grants by the Utah
16 Substance Abuse and Anti-Violence Coordinating Council; and
- 17 ▶ makes technical changes.

18 **Monies Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **32A-1-115**, as last amended by Chapter 342, Laws of Utah 2006

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

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

28 **32A-1-115. Alcoholic Beverage Enforcement and Treatment Restricted Account**
29 **-- Distribution.**

30 (1) As used in this section:

31 (a) "Account" means the Alcoholic Beverage Enforcement and Treatment Restricted
32 Account created in this section.

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

34 (i) a violation of:

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

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

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

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

39 (ii) an offense involving the:

40 (A) illegal sale of alcohol;

41 (B) illegal distribution of alcohol;

42 (C) illegal transportation of alcohol;

43 (D) illegal possession of alcohol; or

44 (E) illegal consumption of alcohol.

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

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

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

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

51 (e) "Municipality" means:

52 (i) a city; or

53 (ii) a town.

54 (2) (a) There is created in the General Fund a restricted account called the "Alcoholic
55 Beverage Enforcement and Treatment Restricted Account."

56 (b) The account shall be funded from:

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

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

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

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

61 (d) (i) Consistent with the policies provided in Subsection 32A-1-104(4)(b), the
62 revenues in the account shall be used for statewide public purposes including promoting the
63 reduction of the harmful effects of over consumption of alcoholic beverages by adults and
64 alcohol consumption by minors by funding exclusively programs or projects related to
65 prevention, treatment, detection, prosecution, and control of violations of this title and other
66 offenses in which alcohol is a contributing factor except as provided in Subsection (2)(d)(ii).

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

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

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

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

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

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

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

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

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

85 (i) 25% to municipalities and counties based upon the percentage of the state

86 population residing in each municipality and county;

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

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

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

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

96 (ii) The State Tax Commission:

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

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

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

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

109 (a) for an annual conviction time period:

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

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

113 (B) an ordinance that complies with the requirements of Subsection 41-6a-510(1) or

114 Section 76-5-207; and

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

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

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

123 (5) For purposes of this section:

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

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

127 (ii) includes all:

128 (A) private clubs;

129 (B) restaurants;

130 (C) limited restaurants;

131 (D) on-premise banquet licenses;

132 (E) airport lounges;

133 (F) package agencies; and

134 (G) state stores; and

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

136 (b) the number of state stores, package agencies, and licensees in a county consists only
137 of that number located within unincorporated areas of the county;

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

140 (d) a county's population figure for the 25% distribution to municipalities and counties
141 under Subsection (3)(b)(i) shall be determined only with reference to the population in the

142 unincorporated areas of the county;

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

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

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

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

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

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

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

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

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

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

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

166 (8) (a) By not later than January 1 of the fiscal year of appropriation, the State Tax
167 Commission shall annually distribute to each municipality and county the portion of the
168 appropriation that the municipality or county is eligible to receive under this section, except for
169 any municipality or county that the coordinating council notifies the State Tax Commission in

170 accordance with Subsection (7) may not receive a distribution in that fiscal year.

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

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

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

178 (a) report to the coordinating council:

179 (i) the programs or projects of the municipality or county that receive monies under
180 this section;

181 (ii) if the monies for programs or projects were exclusively used as required by
182 Subsection (2)(d);

183 (iii) indicators of whether the programs or projects that receive monies under this
184 section are effective; and

185 (iv) if any monies received under this section were not expended by the municipality or
186 county; and

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

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

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

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

194 (B) the coordinating council finds does not use the monies as required by Subsection
195 (2)(d) on the basis of the report filed by the municipality or county under Subsection (9); and

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

197 (b) The State Tax Commission shall:

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

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

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

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

205 (ii) as grants to:

206 (A) a county;

207 (B) a municipality; ~~or~~

208 (C) the Department of Alcoholic Beverage Control;

209 (D) the Department of Human Services;

210 ~~(E)~~ (E) the Department of Public Safety[-]; or

211 (F) the Utah State Office of Education.

212 (b) By not later than May 30 of the fiscal year of the appropriation, the coordinating
213 council shall notify the State Tax Commission of any grants awarded under this Subsection
214 (11).

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

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

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

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