



House of Representatives *State of Utah*

UTAH STATE CAPITOL COMPLEX • 350 STATE CAPITOL
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February 11, 2008

Mr. Speaker:

The Law Enforcement and Criminal Justice Committee reports a favorable recommendation on **H.B. 344**, ALCOHOLIC BEVERAGE ENFORCEMENT PROVISIONS, by Representative C. Oda, with the following amendments:

1. *Page 2, Lines 41 through 42:*

41 Other Special Clauses:

42 ~~{None}~~ **This bill coordinates with H.B. 157, Alcoholic Beverage Control Violations Amendments, to merge substantive changes.**

2. *Page 76, Lines 2328 through 2334:*

2328 (1) A person in or having charge of [~~any~~] a premises may not refuse or fail to admit to

2329 the premises or obstruct the entry of [~~any~~];

2330 (a) a member of the commission[-];

2331 (b) an authorized representative of the commission or department[~~-or any~~];

2332 (c) {~~a~~} - **an agent of the State Bureau of Investigation or other** law enforcement officer who demands entry when acting under this title[-]; or

2333 (d) an authorized representative of the attorney general who demands entry when

2334 acting under this title.

3. *Page 76, Lines 2335 through 2340:*

2335 (2) A person in or having charge of [~~any~~] a premises may not interfere with any of the following who is conducting an investigation under this title at the premises:

2337 (a) a member of the commission;

2338 (b) an authorized representative of the commission or department; [~~or~~]

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- 2339 (c) ~~{any}~~ an agent of the State Bureau of Investigation or other law
enforcement officer[-]; or
2340 (d) an authorized representative of the attorney general.

4. Page 78, Lines 2399 through 2406:

- 2399 (1) A person having sold, selling, or offering ~~any~~ an alcoholic product for sale to
the
2400 commission or department may not offer, make, tender, or in any way deliver or transfer
~~any~~
2401 a bribe, gift as defined in Section 67-16-5, or a share of profits to:
2402 (a) ~~any~~ a commissioner;
2403 (b) the department director;
2404 (c) ~~any~~ a department employee; ~~or~~
2405 (d) ~~any~~ ~~{a}~~ an agent of the State Bureau of Investigation or other law
enforcement officer responsible for the enforcement of this title[-]; or
2406 (e) a representative of the attorney general responsible for the enforcement of this
title.

5. Page 79, Lines 2430 through 2444:

- 2430 (1) It is the duty of the following to diligently enforce this title in their respective
2431 capacities:
2432 (a) the governor[-; the commissioners];
2433 (b) a commissioner;
2434 (c) the director [and all officials, inspectors, and employees] of the department;
2435 (d) an official, inspector, or employee of the department[-; aH];
2436 (e) the attorney general;
2437 (f) a prosecuting [officials] official of the state [and its political subdivisions and of
2438 counties, cities, and towns, all peace officers, sheriffs, deputy sheriffs, constables,
marshals;] or

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- 2439 a political subdivision;
2440 (g) a county, city, or town;
2441 (h) an agent of the State Bureau of Investigation, a peace officer, a sheriff,
a deputy sheriff, a constable, a marshal, or a law enforcement
2442 [~~officials;~~] official;
2443 (i) a state health [~~officials;~~] official; and [~~all clerks~~]
2444 (j) a clerk of the courts [~~to diligently enforce this title in their respective capacities~~].

6. *Page 80, Lines 2451 through 2459:*

- 2451 (1) (a) For purposes of enforcing this title and commission rules, [~~all members of the~~
2452 ~~commission, authorized representatives of the commission or department, or any law~~
2453 ~~enforcement or peace officer]~~ the following shall be accorded access, ingress, and egress
to and
2454 from all premises or conveyances used in the manufacture, storage, transportation, service,
or
2455 sale of [~~any~~] an alcoholic product [~~— They also may open any~~]:
2456 (i) a member of the commission;
2457 (ii) an authorized representative of the commission or department;
2458 (iii) an authorized representative of the attorney general; or
2459 (iv) an agent of the State Bureau of Investigation, a law enforcement
officer, or a peace officer.

7. *Page 87, Line 2671:*

2671 title for three years from the date the license is not renewed.

Section 26. Coordinating H.B. 344 and H.B. 157 -- Merging substantive amendments.
If this H.B. 344 and H.B. 157, Alcoholic Beverage Control Violations Amendments, both
pass it is the intent of the Legislature that the Office of Legislative Research and General
Counsel in preparing the Utah Code database for publication to:
(1) modify Subsections 32A-1-119.5(2), (3) and (4) enacted in H.B. 157 to read:

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"(2) A disciplinary proceeding may not be initiated or maintained by the commission or attorney general on the basis, in whole or in part, of a violation of this title unless a person listed in Subsections 32A-1-105(15)(a)(i) through (vi) against whom the violation is alleged is notified by the department of the violation in accordance with this section.

(3) (a) A nondepartment enforcement agency or nondepartment enforcement officer may not report a violation of this title to the department more than eight business days after the day on which a nondepartment enforcement officer or agency completes an investigation that finds a violation of this title.

(b) If the commission or attorney general wants the right to initiate or maintain a disciplinary proceeding on the basis, in whole or in part, of a violation of this title alleged in a report described in Subsection (3)(a), the department shall notify a person listed in Subsections 32A-1-105(15)(a)(i) through (vi) alleged by the report to have violated this title:

(i) by no later than eight business days of the day on which the department receives the report described in Subsection (3)(a); and

(ii) that the commission or attorney general may initiate or maintain a disciplinary proceeding on the basis, in whole or in part, of the violation.

(4) If the commission or attorney general wants the right to initiate or maintain a disciplinary proceeding on the basis, in whole or in part, of a violation of this title alleged by report of a department compliance officer, the department shall notify a person listed in Subsections 32A-1-105(15)(a)(i) through (vi) alleged by the report to have violated this title:

(a) by no later than eight business days after the day on which the department compliance officer completes an investigation that finds a violation of this title; and

(b) that the commission or attorney general may initiate or maintain a disciplinary proceeding on the basis, in whole or in part, of the violation."; and

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(2) insert a new Subsection (8) in Section 32A-1-119.5 enacted in H.B. 157 to read:

"(8)(a) A report to the department under this section of a violation of this title is considered a report to the attorney general for purposes of Section 32A-1-119.

(b) The department shall forward a report received by the department under this section to the attorney general before the time period required to provide notification under this section to a person listed in Subsections 32A-1-105(15)(a)(i) through (iv)."

Respectfully,

DeMar "Bud" Bowman
Committee Chair

Voting: 9-1-1

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