

1 **ALCOHOLIC BEVERAGE CONTROL COMMISSION**

2 **AMENDMENTS**

3 2012 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Brian Doughty**

6 Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

8 **General Description:**

9 This bill modifies the Alcoholic Beverage Control Act to modify requirements for  
10 appointment of commissioners.  
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12 **Highlighted Provisions:**

13 This bill:

14 ▶ requires that certain percentages related to political affiliation and being regular  
15 consumers of an alcoholic product be met in making appointments to the  
16 commission;

17 ▶ provides for a transition; and

18 ▶ makes technical changes.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **32B-2-201**, as last amended by Laws of Utah 2011, Chapters 308 and 334

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*Be it enacted by the Legislature of the state of Utah:*  
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28 Section 1. Section **32B-2-201** is amended to read:

29 **32B-2-201. Alcoholic Beverage Control Commission created.**

30 (1) There is created the "Alcoholic Beverage Control Commission." The commission is  
31 the governing board over the department.

32 (2) (a) The commission is composed of five part-time commissioners appointed by the  
33 governor with the consent of the Senate.

34 (b) No more than [~~three~~] 60% of the commissioners may be of the same political party.

35 (c) (i) At least 40% of the commissioners shall, for at least one year before being  
36 appointed and during their term, be regular consumers of an alcoholic product purchased from  
37 an entity authorized to sell alcoholic products. As used in this Subsection (2)(c), "regular"  
38 means happening or recurring not less than once a month.

39 (ii) The governor shall require an individual to sign an affidavit verifying compliance  
40 with Subsection (2)(c)(i) as a condition of appointment under this Subsection (2)(c).

41 (iii) If as of July 1, 2012, there are not at least 40% of the commissioners who meet the  
42 requirements of Subsection (2)(c)(i), as terms of commissioners expire the governor shall  
43 appoint a new commissioner or a reappointed commissioner in a manner that brings the  
44 commission in compliance with this Subsection (2)(c).

45 (3) (a) Except as required by Subsection (3)(b), as terms of commissioners expire, the  
46 governor shall appoint each new commissioner or reappointed commissioner to a four-year  
47 term.

48 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the  
49 time of appointment or reappointment, adjust the length of terms to ensure that the terms of no  
50 more than two commissioners expire in a fiscal year.

51 (4) (a) When a vacancy occurs on the commission for any reason, the governor shall  
52 appoint a replacement for the unexpired term with the consent of the Senate.

53 (b) Unless removed in accordance with Subsection (6), a commissioner shall remain on  
54 the commission after the expiration of a term until a successor is appointed by the governor,  
55 with the consent of the Senate.

56 (5) A commissioner shall take the oath of office.

57 (6) (a) The governor may remove a commissioner from the commission for cause after  
58 a public hearing conducted by:

59 (i) the governor; or  
60 (ii) an impartial hearing examiner appointed by the governor to conduct the hearing.

61 (b) At least 10 days before the hearing described in Subsection (6)(a), the governor  
62 shall provide the commissioner notice of:

63 (i) the date, time, and place of the hearing; and

64 (ii) the alleged grounds for the removal.

65 (c) The commissioner shall have an opportunity to:

66 (i) attend the hearing;

67 (ii) present witnesses and other evidence; and

68 (iii) confront and cross examine witnesses.

69 (d) After a hearing under this Subsection (6):

70 (i) the person conducting the hearing shall prepare written findings of fact and  
71 conclusions of law; and

72 (ii) the governor shall serve a copy of the prepared findings and conclusions upon the  
73 commissioner.

74 (e) If a hearing under this Subsection (6) is held before a hearing examiner, the hearing  
75 examiner shall issue a written recommendation to the governor in addition to complying with  
76 Subsection (6)(d).

77 (f) A commissioner has five days from the day on which the commissioner receives the  
78 findings and conclusions described in Subsection (6)(d) to file written objections to the  
79 recommendation before the governor issues a final order.

80 (g) The governor shall:

81 (i) issue the final order under this Subsection (6) in writing; and

82 (ii) serve the final order upon the commissioner.

83 (7) A commissioner may not receive compensation or benefits for the commissioner's  
84 service, but may receive per diem and travel expenses in accordance with:

85 (a) Section 63A-3-106;

86 (b) Section 63A-3-107; and

87 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
88 63A-3-107.

89 (8) (a) The governor shall annually appoint the chair of the commission. A

90 commissioner serves as chair to the commission at the pleasure of the governor.

91 (b) The commission shall elect:

92 (i) another commissioner to serve as vice chair; and

93 (ii) other commission officers as the commission considers advisable.

94 (c) A commissioner elected under Subsection (8)(b) shall serve in the office to which  
95 the commissioner is elected at the pleasure of the commission.

96 (9) (a) Each commissioner has equal voting rights on a commission matter when in  
97 attendance at a commission meeting.

98 (b) Three commissioners is a quorum for conducting commission business.

99 (c) A majority vote of the quorum present at a meeting is required for the commission  
100 to act.

101 (10) (a) The commission shall meet at least monthly, but may hold other meetings at  
102 times and places as scheduled by:

103 (i) the commission;

104 (ii) the chair; or

105 (iii) three commissioners upon filing a written request for a meeting with the chair.

106 (b) Notice of the time and place of a commission meeting shall be given to each  
107 commissioner, and to the public in compliance with Title 52, Chapter 4, Open and Public  
108 Meetings Act. A commission meeting is open to the public, except for a commission meeting  
109 or portion of a commission meeting that is closed by the commission as authorized by Sections  
110 52-4-204 and 52-4-205.

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**Legislative Review Note**  
**as of 2-3-12 9:39 AM**

**Office of Legislative Research and General Counsel**