

Representative Steve Eliason proposes the following substitute bill:

ALCOHOL BEVERAGE CONTROL OPERATIONS AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill creates the Operations Investigation Program for the Department of Alcoholic Beverage Control.

Highlighted Provisions:

This bill:

- ▶ designates certain records as private records;
- ▶ defines terms;
- ▶ creates and provides funding for the Operations Investigation Program to ~~§~~ **[covertly**

observe] engage in undisclosed observation ~~←§~~ and evaluate customer contacts with the

Department of Alcoholic Beverage

Control;

- ▶ establishes program responsibilities;
- ▶ establishes reporting and tracking requirements;
- ▶ addresses subject department's responsibilities;
- ▶ addresses incentives; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



212 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
 213 doctors, or affiliated entities are not private records or controlled records under Section
 214 63G-2-304 when the records are sought:

215 (i) in connection with any legal or administrative proceeding in which the patient's
 216 physical, mental, or emotional condition is an element of any claim or defense; or

217 (ii) after a patient's death, in any legal or administrative proceeding in which any party
 218 relies upon the condition as an element of the claim or defense.

219 (c) Medical records are subject to production in a legal or administrative proceeding
 220 according to state or federal statutes or rules of procedure and evidence as if the medical
 221 records were in the possession of a nongovernmental medical care provider.

222 Section 3. Section **63J-4-701** is enacted to read:

223 **Part 7. Operations Investigation Program**

224 **63J-4-701. Title.**

225 This part is known as the "Operations Investigation Program."

226 Section 4. Section **63J-4-702** is enacted to read:

227 **63J-4-702. Definitions.**

228 As used in this section:

229 ~~§→ [(1) "Covert observation" or "covertly observe" means an act taken by the program to~~
 230 ~~directly observe and evaluate the service offered by a subject store without the knowledge of~~
 231 ~~the subject store;~~

232 ~~———(2)] (1) ←§ "Interaction" means an individual act under the program to~~ §→ [covertly
 232a ~~observe] engage in the undisclosed observation of ←§ a~~
 233 ~~subject store in a manner authorized by this part.~~

234 ~~§→ [(3)] (2) ←§ "Program" means the Operations Investigation Program created under~~
 234a ~~Section~~
 235 ~~63J-4-703.~~

236 ~~§→ [(4)] (3) ←§ "Subject department" means the Department of Alcoholic Beverage~~
 236a ~~Control.~~

237 ~~§→ [(5)] (4) ←§ "Subject store" means a store created under Title 32B, Chapter 2, Part 5,~~
 237a ~~State~~
 238 ~~Store, by the Alcoholic Beverage Control Commission.~~

238a ~~§→ (5) "Undisclosed observation" means an act taken by the program to directly observe and~~
 238b ~~evaluate the service offered by a subject store without the knowledge of the subject store. ←§~~

239 Section 5. Section **63J-4-703** is enacted to read:

243 (2) The executive director may procure the services of a nonpublic entity in accordance
 244 with Title 63G, Chapter 6a, Utah Procurement Code, to administer the program.

245 Section 6. Section **63J-4-704** is enacted to read:

246 **63J-4-704. Program responsibilities -- Data collection.**

247 (1) The executive director shall ensure that the program, through ~~§~~ [covert] undisclosed
 247a ~~§~~ observation,

248 evaluates each subject store's:

249 (a) quality of customer service;

250 (b) cleanliness;

251 (c) customer satisfaction;

252 (d) product availability; and

253 (e) compliance with laws controlling the sale of alcoholic beverages.

254 (2) Before January 1 of each year, the executive director shall consult with the director
 255 of the subject department to:

256 (a) identify categories, including those described in Subsection (1), that are subject to
 257 the program's assessment;

258 (b) establish performance measures for the categories identified under Subsection
 259 (2)(a) that the program will measure, including a scoring system by which the program will
 260 evaluate each subject store's performance in each category; and

261 (c) establish goals for all subject stores' customer service, using the performance
 262 measures established under Subsection (2)(b).

263 (3) Before January 1 of each year, the executive director shall create a plan, based upon
 264 the performance measures established under Subsection (2)(b), by which the program will
 265 ~~§~~ [covertly observe] engage in undisclosed observation ~~§~~ and evaluate each subject store's
 265a performance.

266 (4) The program shall:

267 (a) collect detailed data on each interaction conducted under the program, including the
 268 name of each subject store employee who is contacted during the interaction; and

269 (b) score the subject store according to the scoring system for each performance
 270 measure established under Subsection (2)(b).

271 (5) (a) The executive director:

272 (i) shall ensure that the program ~~§~~ [covertly] ~~§~~ observes ~~§~~ by undisclosed
 272a observation ~~§~~ the customer service offered by each
 273 subject store through an in-person interaction at least once per month; and

274 (ii) may also authorize the program to ~~§~~ [covertly] ~~←§~~ observe ~~§~~ by undisclosed
 274a observation ~~←§~~ the customer service offered by
 275 a subject store through an interaction conducted by telephone or through electronic
 276 communication.

277 (b) The executive director may authorize the program to ~~§~~ [covertly] ~~←§~~ record an
 277a interaction ~~§~~ without disclosing the recording ~~←§~~ .

278 (c) The executive director may not authorize the program to purposely ~~§~~ [covertly
 278a observe] engage in undisclosed observation ~~←§~~
 279 or record a direct interaction between a subject store and another person unless the person is
 280 associated with the program or the office.

281 (6) The executive director may pay a stipend to a person that:

282 (a) performs an interaction for the program; and

283 (b) is not otherwise associated with the program or the office.

284 Section 7. Section **63J-4-705** is enacted to read:

285 **63J-4-705. Reporting and tracking results.**

286 (1) The executive director shall prepare a detailed report each month that contains:

287 (a) the performance measures and goals established under Subsection 63J-4-704(2) for
 288 all subject stores;

289 (b) for each subject store:

290 (i) a compilation, analysis, and interpretation of the data collected and scores recorded
 291 under Subsection 63J-4-704(4);

292 (ii) an assessment of how the subject store's performance relates to the performance
 293 measures and goals established under Subsection 63J-4-704(2); and

294 (iii) a description of each interaction, including:

295 (A) the name of each of the subject store's employees who were contacted during the
 296 interaction; and

297 (B) the scores recorded under Subsection 63J-4-704(4)(b) for the interaction;

298 (c) an explanation of any observed patterns of a subject store's or the subject
 299 department's practices that do not appear to be in compliance with state law, rule, or policy or
 300 with generally accepted customer service practices; and

301 (d) any recommended changes needed to bring a subject store or the subject department
 302 into compliance with state law, rule, or policy or with generally accepted customer service
 303 practices.

304 (2) The executive director shall, within 30 days after the day on which the executive