

Representative Timothy D. Hawkes proposes the following substitute bill:

CONSUMER ALCOHOLIC BEVERAGE PURCHASING

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gene Davis

House Sponsor: Timothy D. Hawkes

LONG TITLE

General Description:

This bill amends provisions of the Alcoholic Beverage Control Act regarding consumer purchasing.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends Liquor Control Fund provisions to provide for the cost of running the Consumer Purchasing Division;
- ▶ creates the Division of Consumer Purchasing (division) within the Department of Alcoholic Beverage Control;
- ▶ requires the division to establish a consumer purchasing system;
- ▶ outlines the parameters of the consumer purchasing system;
- ▶ requires the Alcoholic Beverage Control Commission (commission) to receive and review complaints regarding the Division or the consumer purchasing system; and
- ▶ grants the commission rulemaking authority.

Money Appropriated in this Bill:

None

Other Special Clauses:



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **32B-2-301**, as last amended by Laws of Utah 2018, Chapter 329

30 ENACTS:

31 **32B-2-212**, Utah Code Annotated 1953

32 **32B-2-701**, Utah Code Annotated 1953

33 **32B-2-702**, Utah Code Annotated 1953

34 **32B-2-703**, Utah Code Annotated 1953

35 **32B-2-704**, Utah Code Annotated 1953



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

38 Section 1. Section **32B-2-212** is enacted to read:

39 **32B-2-212. Division of Consumer Purchasing.**

40 There is created within the department the Division of Consumer Purchasing to
41 establish and administer the consumer purchasing system described in Part 7, Consumer
42 Purchasing System.

43 Section 2. Section **32B-2-301** is amended to read:

44 **32B-2-301. State property -- Liquor Control Fund -- Money to be retained by**
45 **department -- Department building process.**

46 (1) The following are property of the state:

47 (a) the money received in the administration of this title, except as otherwise provided;

48 and

49 (b) property acquired, administered, possessed, or received by the department.

50 (2) (a) There is created an enterprise fund known as the "Liquor Control Fund."

51 (b) Except as provided in Section **32B-2-304**, the department shall deposit the
52 following into the Liquor Control Fund:

53 (i) money received in the administration of this title; and

54 (ii) money received from the markup described in Section **32B-2-304**.

55 (c) The department may draw from the Liquor Control Fund only to the extent
56 appropriated by the Legislature or provided by statute.

57 (d) The net position of the Liquor Control Fund may not fall below zero.

58 (3) (a) Notwithstanding Subsection (2)(c), the department may draw by warrant from
59 the Liquor Control Fund without an appropriation for an expenditure that is directly incurred by
60 the department:

61 (i) to purchase an alcoholic product;

62 (ii) to transport an alcoholic product from the supplier to a warehouse of the
63 department; or

64 (iii) for variances related to an alcoholic product, including breakage or theft.

65 (b) If the balance of the Liquor Control Fund is not adequate to cover a warrant that the
66 department draws against the Liquor Control Fund, to the extent necessary to cover the
67 warrant, the cash resources of the General Fund may be used.

68 (4) (a) As used in this Subsection (4), "base budget" means the same as that term is
69 defined in legislative rule.

70 (b) The department's base budget shall include as an appropriation from the Liquor
71 Control Fund:

72 (i) credit card related fees paid by the department;

73 (ii) package agency compensation; and

74 (iii) the department's costs of shipping and warehousing alcoholic products.

75 (5) (a) The Division of Finance shall transfer annually from the Liquor Control Fund to
76 the General Fund a sum equal to the amount of net profit earned from the sale of liquor since
77 the preceding transfer of money under this Subsection (5).

78 (b) After each fiscal year, the Division of Finance shall calculate the amount for the
79 transfer on or before September 1 and the Division of Finance shall make the transfer on or
80 before September 30.

81 (c) The Division of Finance may make year-end closing entries in the Liquor Control
82 Fund to comply with Subsection 51-5-6(2).

83 (6) (a) By the end of each day, the department shall:

84 (i) make a deposit to a qualified depository, as defined in Section 51-7-3; and

85 (ii) report the deposit to the state treasurer.

86 (b) A commissioner or department employee is not personally liable for a loss caused
87 by the default or failure of a qualified depository.

88 (c) Money deposited in a qualified depository is entitled to the same priority of
89 payment as other public funds of the state.

90 (7) Before the Division of Finance makes the transfer described in Subsection (5), the
91 department may retain each fiscal year from the Liquor Control Fund \$1,000,000 that the
92 department may use for:

- 93 (a) capital equipment purchases;
- 94 (b) salary increases for department employees;
- 95 (c) performance awards for department employees; or
- 96 (d) information technology enhancements because of changes or trends in technology.

97 (8) The department shall use the following to pay the cost of running the Division of
98 Consumer Purchasing created in Section [32B-2-212](#):

99 (a) for the fiscal year beginning July 1, 2022, the first \$2,160,200 in net profits that
100 exceed the amount transferred from the Liquor Control Fund to the General Fund for the
101 previous fiscal year; and

102 (b) for a fiscal year beginning on or after July 1, 2023, the first \$883,900 in net profits
103 that exceed the amount transferred from the Liquor Control Fund to the General Fund for the
104 previous fiscal year.

105 Section 3. Section **32B-2-701** is enacted to read:

106 **32B-2-701. Definitions.**

107 As used in this part:

108 (1) "Consumer purchasing system" means the consumer purchasing system established
109 in Section [32B-2-702](#).

110 (2) "Division" means the Division of Consumer Purchasing created in Section
111 [32B-2-212](#).

112 Section 4. Section **32B-2-702** is enacted to read:

113 **32B-2-702. Consumer purchasing system.**

114 (1) The division shall establish and administer a consumer purchasing system that:

115 (a) allows an individual to:

116 (i) order an alcoholic product;

117 (A) from a third party through the division; and

118 (B) if the alcoholic product is for personal household use and consumption, and not for

119 sale, resale, or consumption on premises licensed by the commission; and
120 (ii) pick up the alcoholic product ordered under Subsection (1)(a)(i) from a state store
121 or package agency; and
122 (b) requires an individual ordering an alcoholic product to first:
123 (i) designate a state store or package agency at which the individual would prefer to
124 collect the alcoholic product; and
125 (ii) pay the division for the alcoholic product order in full, including:
126 (A) the cost of the alcoholic product; and
127 (B) in addition to any tax, the markup described in Section [32B-2-304](#).
128 (2) The division shall:
129 (a) ensure that an alcoholic product ordered through the consumer purchasing system is
130 shipped or transported to a department warehouse;
131 (b) deliver the alcoholic product to the appropriate state store or package agency;
132 (c) notify the individual who ordered the alcoholic product when the alcoholic product
133 is ready for the individual to collect from the state store or package agency described in
134 Subsection (2)(b);
135 (d) administer the consumer purchasing system in a manner that:
136 (i) is efficient; and
137 (ii) ensures timely delivery of alcoholic products; and
138 (e) establish a method by which an individual may submit to the commission a
139 comment or complaint regarding the division or the consumer purchasing system.
140 (3) The division may not require that an individual order a specific quantity of an
141 alcoholic product that is different than a quantity the third-party seller offers for sale.
142 Section 5. Section **32B-2-703** is enacted to read:
143 **32B-2-703. Consumer purchasing complaints.**
144 The commission shall:
145 (1) receive and review each comment or complaint an individual submits in relation to
146 the division or the consumer purchasing system; and
147 (2) take any action the commission determines necessary.
148 Section 6. Section **32B-2-704** is enacted to read:
149 **32B-2-704. Rulemaking.**

150 The commission may make rules in accordance with Title 63G, Chapter 3, Utah
151 Administrative Rulemaking Act, to carry out the provisions of this part.