

SB0103S03 compared with SB0103S02

~~{deleted text}~~ shows text that was in SB0103S02 but was deleted in SB0103S03.

inserted text shows text that was not in SB0103S02 but was inserted into SB0103S03.

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~~{Senator Gene Davis}~~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;

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- ▶ 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:

None

Utah Code Sections Affected:

AMENDS:

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

ENACTS:

32B-2-212, Utah Code Annotated 1953

32B-2-701, Utah Code Annotated 1953

32B-2-702, Utah Code Annotated 1953

32B-2-703, Utah Code Annotated 1953

32B-2-704, Utah Code Annotated 1953

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

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

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

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

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

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

(1) The following are property of the state:

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

and

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

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

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

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

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

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

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

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

(i) to purchase an alcoholic product;

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

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

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

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

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

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

(ii) package agency compensation; and

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

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

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

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

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

- (i) make a deposit to a qualified depository, as defined in Section 51-7-3; and
- (ii) report the deposit to the state treasurer.

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

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

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

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

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

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

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

Section ~~{2}~~3. Section **32B-2-701** is enacted to read:

32B-2-701. Definitions.

As used in this part:

(1) "Consumer purchasing system" means the consumer purchasing system established in Section 32B-2-702.

(2) "Division" means the Division of Consumer Purchasing created in Section 32B-2-212.

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Section ~~33~~4. Section **32B-2-702** is enacted to read:

32B-2-702. Consumer purchasing system.

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

(a) allows an individual to:

(i) order an alcoholic product:

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

(B) if the alcoholic product is for personal household use and consumption, and not for sale, resale, or consumption on premises licensed by the commission; and

(ii) pick up the alcoholic product ordered under Subsection (1)(a)(i) from a state store or package agency; and

(b) requires an individual ordering an alcoholic product to first:

~~{ (i) (A) enter the individual's state-issued identification number through an electronic platform; or~~

~~— (B) show proof of age to division staff taking the order in person;~~

~~‡ (iii) i) designate a state store or package agency at which the individual would prefer to collect the alcoholic product; and~~

~~(iiii) ii) pay the division for the alcoholic product order in full, including:~~

~~(A) the cost of the alcoholic product; and~~

~~(B) in addition to any tax, the markup described in Section 32B-2-304.~~

(2) The division shall:

(a) ensure that an alcoholic product ordered through the consumer purchasing system is shipped or transported to a department warehouse;

(b) deliver the alcoholic product to the appropriate state store or package agency;

(c) notify the individual who ordered the alcoholic product when the alcoholic product is ready for the individual to collect from the state store or package agency described in

Subsection (2)(b);

(d) administer the consumer purchasing system in a manner that:

(i) is efficient; and

(ii) ensures timely delivery of alcoholic products; and

(e) establish a method by which an individual may submit to the commission a comment or complaint regarding the division or the consumer purchasing system.

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(3) ~~{(a) Subject to Subsection (3)(b), the}~~ The division may not require that an individual order a specific quantity of an alcoholic product that is different than a quantity the third-party seller offers for sale.

~~{~~ ~~(b) The division may require that an individual order an alcoholic product in a container that is not:~~

~~— (i) smaller than 200 milliliters, except as otherwise allowed by the commission; or~~

~~— (ii) larger than two liters.~~

~~‡~~ Section ~~{4}~~5. Section **32B-2-703** is enacted to read:

32B-2-703. Consumer purchasing complaints.

The commission shall:

(1) receive and review each comment or complaint an individual submits in relation to the division or the consumer purchasing system; and

(2) take any action the commission determines necessary.

Section ~~{5}~~6. Section **32B-2-704** is enacted to read:

32B-2-704. Rulemaking.

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