

**Senator Gene Davis** proposes the following substitute bill:

**CONSUMER ALCOHOLIC BEVERAGE PURCHASING**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gene Davis**

House Sponsor: Timothy D. Hawkes

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ creates the Division of Consumer Purchasing (division) within the Department of Alcoholic Beverage Control;
- ▶ moves the wine subscription program under the administration of the Division of Consumer Purchasing;
- ▶ requires the division to establish a consumer purchasing system;
- ▶ outlines the parameters of the consumer purchasing system;
- ▶ requires the Alcoholic Beverage Control Commission to receive and review complaints regarding the division or the consumer purchasing system; and
- ▶ grants the Alcoholic Beverage Control Commission rulemaking authority.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **32B-2-701**, as enacted by Laws of Utah 2020, Chapter 178

30 **32B-2-702**, as enacted by Laws of Utah 2020, Chapter 178

31 **32B-2-703**, as enacted by Laws of Utah 2020, Chapter 178

32 ENACTS:

33 **32B-2-212**, Utah Code Annotated 1953

34 **32B-2-801**, Utah Code Annotated 1953

35 **32B-2-802**, Utah Code Annotated 1953

36 **32B-2-803**, Utah Code Annotated 1953



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

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

40 **32B-2-212. Division of Consumer Purchasing.**

41 There is created within the department the Division of Consumer Purchasing to  
42 establish and administer:

43 (1) the wine subscription program described in Part 7, Wine Subscription Program; and

44 (2) the consumer purchasing system described in Part 8, Consumer Purchasing System.

45 Section 2. Section **32B-2-701** is amended to read:

46 **32B-2-701. Definitions.**

47 As used in this part:

48 (1) "Division" means the Division of Consumer Purchasing created in Section  
49 **32B-2-212.**

50 (2) "Subscriber" means an individual who subscribes to a wine subscription as  
51 described in Subsection **32B-2-702(2).**

52 [~~(2)~~] (3) "Subscription program" means the wine subscription program established in  
53 Section **32B-2-702.**

54 [~~(3)~~] (4) "Wine subscription" means an arrangement in which a customer pays a  
55 recurring price at regular intervals for a product that involves the shipment or transportation of  
56 wine.

57 [~~(4)~~] (5) "Wine subscription business" means a person that:

58 (a) sells or offers for sale a wine subscription; and

59 (b) contracts with the department to participate in the subscription program.

60 Section 3. Section **32B-2-702** is amended to read:

61 **32B-2-702. Wine subscription program.**

62 (1) The [~~department~~] division shall establish and administer a wine subscription  
63 program as described in this part.

64 (2) The subscription program shall permit an individual to subscribe to a wine  
65 subscription that a wine subscription business sells or offers for sale by:

66 (a) enrolling in the wine subscription program in a manner the [~~department~~] division  
67 prescribes;

68 (b) authorizing the [~~department~~] division to purchase the wine subscription in the  
69 individual's name;

70 (c) paying the [~~department~~] division, in a manner the [~~department~~] division prescribes:

71 (i) the price of the wine subscription;

72 (ii) in addition to any tax, the markup described in Subsection **32B-2-304(4)**; and

73 (iii) a fee the [~~department~~] division charges in accordance with Subsection  
74 **32B-2-703(1)**; and

75 (d) designating the state store or package agency at which the individual would prefer  
76 to collect the wine.

77 (3) The [~~department~~] division shall:

78 (a) designate by contract with a wine subscription business the department warehouse  
79 to which the wine subscription business ships or transports wine under the subscription  
80 program;

81 (b) deliver wine purchased through the subscription program to the appropriate state  
82 store or package agency; and

83 (c) notify a subscriber when wine purchased through the subscription program is ready  
84 for the subscriber to collect from the state store or package agency described in Subsection  
85 (3)(b).

86 Section 4. Section **32B-2-703** is amended to read:

87 **32B-2-703. Fees -- Rulemaking.**

88 (1) The [department] division may charge a fee as part of the subscription program:  
89 (a) in accordance with Section [63J-1-504](#); and  
90 (b) to cover costs to the [department] division for administering the subscription  
91 program.

92 (2) The commission may make rules in accordance with Title 63G, Chapter 3, Utah  
93 Administrative Rulemaking Act, for the administration of this part, including rules designating  
94 which package agencies may receive from the [department] division wines that are purchased  
95 through the subscription program.

96 Section 5. Section **32B-2-801** is enacted to read:

97 **Part 8. Consumer Purchasing System**

98 **32B-2-801. Definitions.**

99 As used in this part:

100 (1) "Consumer purchasing system" means the consumer purchasing system established  
101 in Section [32B-2-802](#).

102 (2) "Division" means the Division of Consumer Purchasing created in Section  
103 [32B-2-212](#).

104 Section 6. Section **32B-2-802** is enacted to read:

105 **32B-2-802. Consumer purchasing system.**

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

107 (a) allows an individual to:

108 (i) order an alcoholic product from an approved vendor through the division; and

109 (ii) pick up an alcoholic product ordered as described in Subsection (1)(a)(i) from a  
110 state store or package agency; and

111 (b) requires an individual ordering an alcoholic product as described in Subsection  
112 (1)(a) to, at the time the order is made:

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

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

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

117 (B) in addition to any tax, the markup described in Section [32B-2-304](#).

118 (2) The division shall:

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

121 (b) deliver an alcoholic product ordered through the consumer purchasing system to the  
122 appropriate state store or package agency;

123 (c) when an alcoholic product ordered through the consumer purchasing system is  
124 ready for the individual who ordered the alcoholic product to collect, notify the individual;

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

126 (i) is efficient; and

127 (ii) ensures timely delivery of alcoholic products; and

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

130 (3) The division may not require that an individual order a specific quantity of an  
131 alcoholic product that is different than a quantity the vendor offers for sale.

132 Section 7. Section **32B-2-803** is enacted to read:

133 **32B-2-803. Rulemaking -- Consumer purchasing complaints.**

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

136 (2) The commission shall:

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

139 (b) take any action permitted under this title that the commission determines necessary.