

## SB0059S01 compared with SB0059

~~deleted text~~ shows text that was in SB0059 but was deleted in SB0059S01.

inserted text shows text that was not in SB0059 but was inserted into SB0059S01.

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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;

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- ▶ 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:

None

### Utah Code Sections Affected:

#### AMENDS:

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

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

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

#### ENACTS:

32B-2-212, Utah Code Annotated 1953

32B-2-801, Utah Code Annotated 1953

32B-2-802, Utah Code Annotated 1953

32B-2-803, Utah Code Annotated 1953

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*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:

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

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

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

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

As used in this part:

(1) "Division" means the Division of Consumer Purchasing created in Section

32B-2-212.

(~~1~~2) "Subscriber" means an individual who subscribes to a wine subscription as

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described in Subsection 32B-2-702(2).

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

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

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

- (a) sells or offers for sale a wine subscription; and
- (b) contracts with the department to participate in the subscription program.

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

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

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

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

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

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

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

(i) the price of the wine subscription;

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

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

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

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

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

(b) deliver wine purchased through the subscription program to the appropriate state

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store or package agency; and

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

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

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

(1) The [department] division may charge a fee as part of the subscription program:

(a) in accordance with Section 63J-1-504; and

(b) to cover costs to the [department] division for administering the subscription program.

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

Section ~~{2}~~5. Section 32B-2-801 is enacted to read:

### **Part 8. Consumer Purchasing System**

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

As used in this part:

(1) "Consumer purchasing system" means the consumer purchasing system established in Section 32B-2-802.

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

Section ~~{3}~~6. Section 32B-2-802 is enacted to read:

#### **32B-2-802. 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 from ~~{a third party}~~ an approved vendor through the division ~~{, if the alcoholic product:~~

~~—— (A) is for personal household use and consumption; and~~

~~—— (B) is not for sale, resale, or consumption on premises licensed by the commission, except as permitted in Subsection 32B-5-307(3); and~~

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4; and

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

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

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

(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 an alcoholic product ordered through the consumer purchasing system to the appropriate state store or package agency;

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

(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.

(3) 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}~~ vendor offers for sale.

Section ~~4~~7. Section **32B-2-803** is enacted to read:

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

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

(2) The commission shall:

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

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