

1 **ALCOHOLIC BEVERAGE CONTROL RETAIL STORE**

2 **AMENDMENTS**

3 2021 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Gene Davis**

6 House Sponsor: Timothy D. Hawkes

7

8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Alcoholic Beverage Control Act regarding financing.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ amends what is included in the Department of Alcoholic Beverage Control's base
14 budget.

15 **Money Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **32B-2-301**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

22 **63J-1-602.2**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapters 20
23 and 20

24

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

26 Section 1. Section **32B-2-301** is amended to read:

27 **32B-2-301. State property -- Liquor Control Fund -- Money to be retained by**



28 **department -- Department building process.**

29 (1) As used in this section, "base budget" means the same as that term is defined in
30 legislative rule.

31 (2) The following are property of the state:

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

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

35 ~~[(2)]~~ (3) (a) There is created an enterprise fund known as the "Liquor Control Fund."

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

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

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

40 (iii) money credited under Subsection ~~[(3)]~~ (4).

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

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

44 ~~[(3)]~~ (4) (a) The department shall deposit 0.125% of the total gross revenue from the
45 sale of liquor with the state treasurer to be credited to the Liquor Control Fund.

46 (b) The department shall deposit 0.27% of the total gross revenue from the sale of
47 liquor with the state treasurer, as determined by the total gross revenue collected for the fiscal
48 year two years preceding the fiscal year for which the deposit is made, to be credited to the
49 Liquor Control Fund.

50 ~~[(4)]~~ (5) (a) Notwithstanding Subsection ~~[(2)]~~ (3)(c), the department may draw by
51 warrant from the Liquor Control Fund without an appropriation for an expenditure that is
52 directly incurred by the department:

53 (i) to purchase an alcoholic product;

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

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

57 (b) If the balance of the Liquor Control Fund is not adequate to cover a warrant that the
58 department draws against the Liquor Control Fund, to the extent necessary to cover the

59 warrant, the cash resources of the General Fund may be used.

60 ~~[(5) (a) As used in this Subsection (5), "base budget" means the same as that term is~~
 61 ~~defined in legislative rule.]~~

62 ~~[(b)] (6)~~ The department's base budget shall include as an appropriation from the
 63 Liquor Control Fund:

64 ~~[(i)] (a)~~ credit card related fees paid by the department;

65 ~~[(ii)] (b)~~ package agency compensation; ~~[and]~~

66 ~~[(iii)] (c)~~ the department's costs of shipping and warehousing alcoholic products~~[-]; and~~

67 ~~(d)~~ the amount needed, as the Department of Human Resource Management
 68 determines, to make the median department salary in the previous fiscal year equal the median
 69 market salary in the previous fiscal year for the following positions:

70 (i) state store manager or equivalent;

71 (ii) state store assistant manager or equivalent;

72 (iii) full-time sales clerk at a state store or equivalent; and

73 (iv) part-time sales clerk at a state store or equivalent.

74 ~~[(6)] (7)~~ (a) The Division of Finance shall transfer annually from the Liquor Control
 75 Fund to the General Fund a sum equal to the amount of net profit earned from the sale of liquor
 76 since the preceding transfer of money under this Subsection ~~[(6)] (7)~~.

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

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

82 ~~[(7)] (8)~~ (a) By the end of each day, the department shall:

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

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

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

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

89 ~~[(8)] (9)~~ Before the Division of Finance makes the transfer described in Subsection

90 [(6)] (7), the department may retain each fiscal year from the Liquor Control Fund \$1,000,000
91 that the department may use for:

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

96 Section 2. Section **63J-1-602.2** is amended to read:

97 **63J-1-602.2. List of nonlapsing appropriations to programs.**

98 Appropriations made to the following programs are nonlapsing:

- 99 (1) The Legislature and the Legislature's committees.
- 100 (2) The State Board of Education, including all appropriations to agencies, line items,
101 and programs under the jurisdiction of the State Board of Education, in accordance with
102 Section [53F-9-103](#).
- 103 (3) The Percent-for-Art Program created in Section [9-6-404](#).
- 104 (4) The LeRay McAllister Critical Land Conservation Program created in Section
105 [11-38-301](#).
- 106 (5) Dedicated credits accrued to the Utah Marriage Commission as provided under
107 Subsection [17-16-21\(2\)\(d\)\(ii\)](#).
- 108 (6) The Trip Reduction Program created in Section [19-2a-104](#).
- 109 (7) The Division of Wildlife Resources for the appraisal and purchase of lands under
110 the Pelican Management Act, as provided in Section [23-21a-6](#).
- 111 (8) The emergency medical services grant program in Section [26-8a-207](#).
- 112 (9) The primary care grant program created in Section [26-10b-102](#).
- 113 (10) Sanctions collected as dedicated credits from Medicaid provider under Subsection
114 [26-18-3\(7\)](#).
- 115 (11) The Utah Health Care Workforce Financial Assistance Program created in Section
116 [26-46-102](#).
- 117 (12) The Rural Physician Loan Repayment Program created in Section [26-46a-103](#).
- 118 (13) The Opiate Overdose Outreach Pilot Program created in Section [26-55-107](#).
- 119 (14) Funds that the Department of Alcoholic Beverage Control retains in accordance
120 with Subsection [[32B-2-301\(8\)\(a\)](#)] [32B-2-301\(9\)\(a\)](#) or (b).

121 (15) The General Assistance program administered by the Department of Workforce
122 Services, as provided in Section 35A-3-401.

123 (16) A new program or agency that is designated as nonlapsing under Section
124 36-24-101.

125 (17) The Utah National Guard, created in Title 39, Militia and Armories.

126 (18) The State Tax Commission under Section 41-1a-1201 for the:

127 (a) purchase and distribution of license plates and decals; and

128 (b) administration and enforcement of motor vehicle registration requirements.

129 (19) The Search and Rescue Financial Assistance Program, as provided in Section
130 53-2a-1102.

131 (20) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

132 (21) The Utah Board of Higher Education for teacher preparation programs, as
133 provided in Section 53B-6-104.

134 (22) The Medical Education Program administered by the Medical Education Council,
135 as provided in Section 53B-24-202.

136 (23) The Division of Services for People with Disabilities, as provided in Section
137 62A-5-102.

138 (24) The Division of Fleet Operations for the purpose of upgrading underground
139 storage tanks under Section 63A-9-401.

140 (25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

141 (26) Appropriations to the Department of Technology Services for technology
142 innovation as provided under Section 63F-4-202.

143 (27) The Office of Administrative Rules for publishing, as provided in Section
144 63G-3-402.

145 (28) The Governor's Office of Economic Development to fund the Enterprise Zone
146 Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

147 (29) Appropriations to fund the Governor's Office of Economic Development's Rural
148 Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural
149 Employment Expansion Program.

150 (30) Appropriations to fund programs for the Jordan River Recreation Area as
151 described in Section 65A-2-8.

152 (31) The Department of Human Resource Management user training program, as
153 provided in Section 67-19-6.

154 (32) A public safety answering point's emergency telecommunications service fund, as
155 provided in Section 69-2-301.

156 (33) The Traffic Noise Abatement Program created in Section 72-6-112.

157 (34) The Judicial Council for compensation for special prosecutors, as provided in
158 Section 77-10a-19.

159 (35) A state rehabilitative employment program, as provided in Section 78A-6-210.

160 (36) The Utah Geological Survey, as provided in Section 79-3-401.

161 (37) The Bonneville Shoreline Trail Program created under Section 79-5-503.

162 (38) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and
163 78B-6-144.5.

164 (39) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent
165 Defense Commission.

166 (40) The program established by the Division of Facilities Construction and
167 Management under Section 63A-5b-703 under which state agencies receive an appropriation
168 and pay lease payments for the use and occupancy of buildings owned by the Division of
169 Facilities Construction and Management.