

ALCOHOL CONTROL AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ken Ivory

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to alcohol control.

Highlighted Provisions:

This bill:

- ▶ requires a bar establishment to maintain for a specified time period a record of each purchase of an alcoholic beverage;
- ▶ modifies the required showing for prima facie evidence of dram shop liability;
- ▶ allows an individual to obtain a DUI investigative report if the individual suffered loss or injury as a result of the defendant's actions; and
- ▶ prohibits expungement of a felony DUI conviction even if the court enters a judgment for conviction to a lower degree of offense.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 32B-6-406**, as last amended by Laws of Utah 2023, Chapters 371, 400
- 32B-15-201**, as last amended by Laws of Utah 2023, Chapter 400
- 77-40a-303**, as last amended by Laws of Utah 2023, Chapter 265



28 ENACTS:

29 **41-6a-531**, Utah Code Annotated 1953



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

32 Section 1. Section **32B-6-406** is amended to read:

33 **32B-6-406. Specific operational requirements for a bar establishment license.**

34 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
35 Requirements, a bar establishment licensee and staff of the bar establishment licensee shall
36 comply with this section.

37 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
38 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- 39 (i) a bar establishment licensee;
- 40 (ii) individual staff of a bar establishment licensee; or
- 41 (iii) both a bar establishment licensee and staff of the bar establishment licensee.

42 (2) In addition to complying with Subsection **32B-5-301**(3), a bar licensee shall display
43 in a conspicuous place at the entrance to the licensed premises a sign that:

- 44 (a) measures at least 8-1/2 inches long and 11 inches wide; and
- 45 (b) clearly states that the bar licensee is a bar and that no one under 21 years old is
46 allowed.

47 (3) (a) In addition to complying with Section **32B-5-302**, a bar establishment licensee
48 shall maintain for a minimum of three years:

- 49 (i) a record required by Subsection **32B-5-302**(1); and
- 50 (ii) a record maintained or used by the bar establishment licensee, as the department
51 requires.

52 (b) A bar establishment licensee shall maintain for a minimum of 30 days a record of
53 each payment for the purchase of an alcoholic beverage that includes:

- 54 (i) the patron's name;
- 55 (ii) the date and time of the purchase;
- 56 (iii) the quantity and type of each alcoholic beverage included in the purchase; and
- 57 (iv) if the purchase is made by cash, a digital copy of the patron's proof of age.

58 [~~(b)~~] (c) Section **32B-1-205** applies to a record required to be made, maintained, or

59 used in accordance with this Subsection (3).

60 ~~[(e)]~~ (d) The department shall audit the records of a bar establishment licensee at least
61 once annually.

62 (4) (a) A bar establishment licensee may not sell, offer for sale, or furnish liquor on the
63 licensed premises on any day during a period that:

64 (i) begins at 1 a.m.; and

65 (ii) ends at 9:59 a.m.

66 (b) A bar establishment licensee may sell, offer for sale, or furnish beer during the
67 hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer
68 license.

69 (c) (i) Notwithstanding Subsections (4)(a) and (b), a bar establishment licensee shall
70 keep its licensed premises open for one hour after the bar establishment licensee ceases the sale
71 and furnishing of an alcoholic product during which time a patron of the bar establishment
72 licensee may finish consuming:

73 (A) a single drink containing spirituous liquor;

74 (B) except as provided in Subsection (4)(c)(i)(C), a single serving of wine not
75 exceeding five ounces;

76 (C) a single serving not exceeding 16 ounces of hard cider that is furnished in a sealed
77 container and contains no more than 5% of alcohol by volume;

78 (D) a single serving of heavy beer;

79 (E) a single serving not exceeding 26 ounces of beer; or

80 (F) a single serving of a flavored malt beverage.

81 (ii) A bar establishment licensee is not required to remain open:

82 (A) after all patrons have vacated the premises; or

83 (B) during an emergency.

84 (5) (a) A minor:

85 (i) may not be admitted into, use, or be in the licensed premises of:

86 (A) a dining club licensee unless accompanied by an individual who is 21 years old or
87 older; or

88 (B) a bar licensee, except to the extent provided for under Section [32B-6-406.1](#);

89 (ii) may only be admitted into, use, or be in the lounge or bar area of an equity

90 licensee's or fraternal licensee's licensed premises:

91 (A) when accompanied by an individual who is 21 years old or older; and

92 (B) momentarily while en route to another area of the licensee's premises; and

93 (iii) may not remain or sit in the lounge or bar area of an equity licensee's or fraternal

94 licensee's licensed premises.

95 (b) Notwithstanding Section [32B-5-308](#), a bar establishment licensee may not employ a
96 minor to:

97 (i) work in a lounge or bar area of an equity licensee, fraternal licensee, or dining club

98 licensee; or

99 (ii) handle an alcoholic product.

100 (c) Notwithstanding Section [32B-5-308](#), a minor may not be employed on the licensed
101 premises of a bar licensee.

102 (d) Nothing in this part or Section [32B-5-308](#) precludes a local authority from being
103 more restrictive of a minor's admittance to, use of, or presence on the licensed premises of a bar
104 establishment licensee.

105 (6) A bar establishment licensee shall have food available at all times when an
106 alcoholic product is sold, offered for sale, furnished, or consumed on the licensed premises.

107 (7) (a) Subject to the other provisions of this Subsection (7), a patron may not have
108 more than two alcoholic products of any kind at a time before the patron.

109 (b) A patron may not have two spirituous liquor drinks before the bar establishment
110 licensee patron if one of the spirituous liquor drinks consists only of the primary spirituous
111 liquor for the other spirituous liquor drink.

112 (c) An individual portion of wine is considered to be one alcoholic product under
113 Subsection (7)(a).

114 (8) A bar establishment licensee shall have available on the premises for a patron to
115 review at the time that the patron requests it, a written alcoholic product price list or a menu
116 containing the price of an alcoholic product sold, offered for sale, or furnished by the bar
117 establishment licensee including:

118 (a) a set-up charge;

119 (b) a service charge; or

120 (c) a chilling fee.

121 (9) Subject to Section 32B-5-309, a bar establishment licensee may not temporarily
122 rent or otherwise temporarily lease its premises to a person unless:

123 (a) the person to whom the bar establishment licensee rents or leases the premises
124 agrees in writing to comply with this title as if the person is the bar establishment licensee,
125 except for a requirement related to making or maintaining a record; and

126 (b) the bar establishment licensee takes reasonable steps to ensure that the person
127 complies with this section as provided in Subsection (9)(a).

128 (10) If a bar establishment licensee is an equity licensee or fraternal licensee, the bar
129 establishment licensee shall comply with Section 32B-6-407.

130 (11) If a bar establishment licensee is a dining club licensee or bar licensee, the bar
131 establishment licensee shall comply with Section 32B-1-407.

132 (12) (a) A bar establishment licensee shall own or lease premises suitable for the bar
133 establishment licensee's activities.

134 (b) A bar establishment licensee may not maintain licensed premises in a manner that
135 barricades or conceals the bar establishment licensee's operation.

136 Section 2. Section 32B-15-201 is amended to read:

137 **32B-15-201. Liability for injuries and damage resulting from distribution of**
138 **alcoholic products -- Prima facie evidence.**

139 (1) (a) Except as provided in Subsections 32B-15-202(2) and (3), a person described in
140 Subsection (1)(b) is liable for:

141 (i) any and all injury and damage, except punitive damages to:

142 (A) a third person; or

143 (B) the heir, as defined in Section 78B-3-105, of the third person; or

144 (ii) the death of a third person.

145 (b) A person is liable under Subsection (1)(a) if:

146 (i) the person directly gives, sells, or otherwise provides an alcoholic product:

147 (A) to a person described in Subsection (1)(b)(ii); and

148 (B) as part of the commercial sale, storage, service, manufacture, distribution, or
149 consumption of an alcoholic product;

150 (ii) those actions cause the intoxication of:

151 (A) an individual under 21 years old;

152 (B) an individual who is apparently under the influence of an alcoholic product or
153 drug;

154 (C) an individual whom the person furnishing the alcoholic product knew or should
155 have known from the circumstances was under the influence of an alcoholic product or drug; or

156 (D) an individual who is a known interdicted person; and

157 (iii) the injury or death described in Subsection (1)(a) results from the intoxication of
158 the individual who is provided the alcoholic product.

159 (c) It is prima facie evidence that a person is liable under Subsection (1)(a) for an
160 injury or death that results from the intoxication of an individual described in Subsection
161 (1)(b)(ii)(B) or (C) if:

162 (i) the person directly gives, sells, or otherwise provides the individual the last
163 alcoholic product the individual consumes before the injury or death described in Subsection
164 (1)(b)(iii);

165 (ii) the individual consumes the alcoholic product at the location where the person
166 directly gives, sells, or otherwise provides the individual the alcoholic product;

167 (iii) the injury or death occurs within [~~30 minutes after the time at which the individual~~
168 ~~leaves, and within a 10] a 50 mile radius of, the location where the person gives, sells, or
169 otherwise provides the individual the alcoholic product; and~~

170 (iv) (A) the individual is charged with [~~a criminal violation of Section 41-6a-502 for~~
171 ~~driving under the influence of an alcoholic product in relation to the injury or death.] an offense
172 described in Subsection 41-6a-501(2)(a); or~~

173 (B) if the individual dies as a result of the event that caused the injury or death, a
174 subsequent chemical test shows that the individual had a blood alcohol concentration of .05
175 grams or greater at the time of the test.

176 (2) (a) A person 21 years old or older who is described in Subsection (2)(b) is liable
177 for:

178 (i) any and all injury and damage, except punitive damages to:

179 (A) a third person; or

180 (B) the heir, as defined in Section 78B-3-105, of the third person; or

181 (ii) the death of the third person.

182 (b) A person is liable under Subsection (2)(a) if:

183 (i) the person directly gives or otherwise provides an alcoholic product to an individual
184 who the person knows or should have known is under 21 years old;

185 (ii) those actions caused the intoxication of the individual provided the alcoholic
186 product;

187 (iii) the injury or death described in Subsection (2)(a) results from the intoxication of
188 the individual who is provided the alcoholic product; and

189 (iv) the person is not liable under Subsection (1), because the person did not directly
190 give or provide the alcoholic product as part of the commercial sale, storage, service,
191 manufacture, distribution, or consumption of an alcoholic product.

192 (3) This section does not apply to a business licensed in accordance with Chapter 7,
193 Off-Premise Beer Retailer Act, to sell beer at retail only for off-premise consumption.

194 Section 3. Section **41-6a-531** is enacted to read:

195 **41-6a-531. Access to DUI investigative reports.**

196 (1) As used in this section:

197 (a) "Agent" means:

198 (i) a person's attorney that has been formally engaged;

199 (ii) a person's insurer; or

200 (iii) any other person with signed permission to receive information under this section
201 on a person's behalf.

202 (b) "DUI investigative report" means all materials that a peace officer gathers as part of
203 investigating an offense described in Subsection 41-6a-501 including:

204 (i) the identity of witnesses and, if known, contact information;

205 (ii) witness statements;

206 (iii) photographs and videotapes;

207 (iv) diagrams;

208 (v) field notes;

209 (vi) test results; and

210 (vii) any TRACE investigation report.

211 (2) (a) Upon request, a law enforcement agency shall disclose an unredacted DUI
212 investigative report to:

213 (i) a person who suffers loss or injury related to the person's actions that gave rise to

214 the investigation; or

215 (ii) an agent, parent, or legal guardian of the person described in Subsection (2)(a)(i).

216 (b) A law enforcement agency responding to a request under Subsection (2)(a) may:

217 (i) withhold a portion of the DUI investigative report if disclosure would materially

218 prejudice an ongoing criminal investigation or criminal prosecution;

219 (ii) redact or withhold any privileged information; or

220 (iii) redact an individual's phone number or address, if disclosure of the individual's

221 phone number or address may endanger an individual's physical safety.

222 (3) A law enforcement agency may charge a reasonable fee to cover the cost incurred

223 by disclosing a DUI investigative report in accordance with this section.

224 Section 4. Section **77-40a-303** is amended to read:

225 **77-40a-303. Requirements for a certificate of eligibility to expunge records of a**

226 **conviction.**

227 (1) Except as otherwise provided by this section, a petitioner is eligible to receive a

228 certificate of eligibility from the bureau to expunge the records of a conviction if:

229 (a) the petitioner has paid in full all fines and interest ordered by the court related to the

230 conviction for which expungement is sought;

231 (b) the petitioner has paid in full all restitution ordered by the court under Section

232 [77-38b-205](#); and

233 (c) the following time periods have passed after the day on which the petitioner was

234 convicted or released from incarceration, parole, or probation, whichever occurred last, for the

235 conviction that the petitioner seeks to expunge:

236 (i) 10 years for the conviction of a misdemeanor under Subsection [41-6a-501\(2\)](#);

237 (ii) 10 years for the conviction of a felony for operating a motor vehicle with any

238 amount of a controlled substance in an individual's body and causing serious bodily injury or

239 death, as codified before May 4, 2022, Laws of Utah 2021,

240 Chapter 236, Section 1, Subsection [58-37-8\(2\)\(g\)](#);

241 (iii) seven years for the conviction of a felony;

242 (iv) five years for the conviction of a drug possession offense that is a felony;

243 (v) five years for the conviction of a class A misdemeanor;

244 (vi) four years for the conviction of a class B misdemeanor; or

- 245 (vii) three years for the conviction of a class C misdemeanor or infraction.
- 246 (2) A petitioner is not eligible to receive a certificate of eligibility from the bureau to
247 expunge the records of a conviction under Subsection (1) if:
- 248 (a) except as provided in Subsection (3), the conviction for which expungement is
249 sought is:
- 250 (i) a capital felony;
- 251 (ii) a first degree felony;
- 252 (iii) a felony conviction of a violent felony as defined in Subsection
253 [76-3-203.5\(1\)\(c\)\(i\)](#);
- 254 (iv) a felony conviction described in Subsection [41-6a-501\(2\)](#);
- 255 (v) a felony conviction described in Subsection [41-6a-501\(2\)](#) that is reduced in
256 accordance with Section [76-3-402](#);
- 257 [~~(v)~~] (vi) an offense, or a combination of offenses, that would require the individual to
258 register as a sex offender, as defined in Section [77-41-102](#); or
- 259 [~~(vi)~~] (vii) a registerable child abuse offense as defined in Subsection [77-43-102\(2\)](#);
- 260 (b) there is a criminal proceeding for a misdemeanor or felony offense pending against
261 the petitioner, unless the criminal proceeding is for a traffic offense;
- 262 (c) there is a plea in abeyance for a misdemeanor or felony offense pending against the
263 petitioner, unless the plea in abeyance is for a traffic offense;
- 264 (d) the petitioner is currently incarcerated, on parole, or on probation, unless the
265 petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory
266 offense;
- 267 (e) the petitioner intentionally or knowingly provides false or misleading information
268 on the application for a certificate of eligibility;
- 269 (f) there is a criminal protective order or a criminal stalking injunction in effect for the
270 case; or
- 271 (g) the bureau determines that the petitioner's criminal history makes the petitioner
272 ineligible for a certificate of eligibility under Subsection (4) or (5).
- 273 (3) Subsection (2)(a) does not apply to a conviction for a qualifying sexual offense, as
274 defined in Section [76-3-209](#), if, at the time of the offense, a petitioner who committed the
275 offense was at least 14 years old but under 18 years old, unless the petitioner was convicted by

276 a district court as an adult in accordance with Title 80, Chapter 6, Part 5, Transfer to District
277 Court.

278 (4) Subject to Subsections (6), (7), and (8), a petitioner is not eligible to receive a
279 certificate of eligibility if, at the time the petitioner seeks the certificate of eligibility, the
280 bureau determines that the petitioner's criminal history, including previously expunged
281 convictions, contains any of the following:

282 (a) two or more felony convictions other than for drug possession offenses, each of
283 which is contained in a separate criminal episode;

284 (b) any combination of three or more convictions other than for drug possession
285 offenses that include two class A misdemeanor convictions, each of which is contained in a
286 separate criminal episode;

287 (c) any combination of four or more convictions other than for drug possession
288 offenses that include three class B misdemeanor convictions, each of which is contained in a
289 separate criminal episode; or

290 (d) five or more convictions other than for drug possession offenses of any degree
291 whether misdemeanor or felony, each of which is contained in a separate criminal episode.

292 (5) Subject to Subsections (7) and (8), a petitioner is not eligible to receive a certificate
293 of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau
294 determines that the petitioner's criminal history, including previously expunged convictions,
295 contains any of the following:

296 (a) three or more felony convictions for drug possession offenses, each of which is
297 contained in a separate criminal episode; or

298 (b) any combination of five or more convictions for drug possession offenses, each of
299 which is contained in a separate criminal episode.

300 (6) If the petitioner's criminal history contains convictions for both a drug possession
301 offense and a non-drug possession offense arising from the same criminal episode, the bureau
302 shall count that criminal episode as a conviction under Subsection (4) if any non-drug
303 possession offense in that episode:

304 (a) is a felony or class A misdemeanor; or

305 (b) has the same or a longer waiting period under Subsection (1)(c) than any drug
306 possession offense in that episode.

307 (7) Except as provided in Subsection (8), if at least 10 years have passed after the day
308 on which the petitioner was convicted or released from incarceration, parole, or probation,
309 whichever occurred last, for all convictions:

310 (a) each numerical eligibility limit under Subsections (4)(a) and (b) shall be increased
311 by one; and

312 (b) each numerical eligibility limit under Subsections (4)(c) and (d) is not applicable if
313 the highest level of convicted offense in the criminal episode is:

314 (i) a class B misdemeanor;

315 (ii) a class C misdemeanor;

316 (iii) a drug possession offense if none of the non-drug possession offenses in the
317 criminal episode are a felony or a class A misdemeanor; or

318 (iv) an infraction.

319 (8) When determining whether a petitioner is eligible for a certificate of eligibility
320 under Subsection (4), (5), or (7), the bureau may not consider a petitioner's pending case or
321 prior conviction for:

322 (a) an infraction;

323 (b) a traffic offense;

324 (c) a minor regulatory offense; or

325 (d) a clean slate eligible case that was automatically expunged in accordance with
326 Section [77-40a-201](#).

327 (9) If the petitioner received a pardon before May 14, 2013, from the Utah Board of
328 Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned crimes
329 in accordance with Section [77-27-5.1](#).

330 Section 5. **Effective date.**

331 This bill takes effect on May 1, 2024.