

ALCOHOLIC BEVERAGE CONTROL ENFORCEMENT

AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act to address provision of legal counsel by the attorney general's office.

Highlighted Provisions:

This bill:

- ▶ provides for the deposit of fines and costs into the Alcoholic Beverage Control Act Enforcement Fund;
- ▶ outlines the use of money in the fund to support the attorney general's office providing legal counsel related to enforcement;
- ▶ imposes caps; and
- ▶ makes technical amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

32B-2-305, as last amended by Laws of Utah 2013, Chapter 400

32B-3-205, as enacted by Laws of Utah 2010, Chapter 276



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

Section 1. Section **32B-2-305** is amended to read:

32B-2-305. Alcoholic Beverage Control Act Enforcement Fund.

(1) As used in this section:

(a) "Alcohol-related law enforcement officer" is as defined in Section [32B-1-201](#).

(b) "Enforcement ratio" is as defined in Section [32B-1-201](#).

(c) "Fund" means the Alcoholic Beverage Control Act Enforcement Fund created in this section.

(2) There is created an expendable special revenue fund known as the "Alcoholic Beverage Control Act Enforcement Fund."

(3) (a) The fund consists of:

(i) deposits made under Subsection (4); and

(ii) interest earned on the fund.

(b) The fund shall earn interest. Interest on the fund shall be deposited into the fund.

(4) (a) After the deposit made under Section [32B-2-304](#) for the school lunch program, the department shall deposit 1% of the total gross revenue from the sale of liquor with the state treasurer to be credited to the fund to be used by the Department of Public Safety as provided in Subsection (5).

(b) Beginning July 1, 2015, the fines and costs collected pursuant to Section [32B-3-205](#) shall be deposited into the fund.

(5) (a) The Department of Public Safety shall expend money from the fund to supplement appropriations by the Legislature so that the Department of Public Safety maintains a sufficient number of alcohol-related law enforcement officers such that beginning on July 1, 2012, each year the enforcement ratio as of July 1 is equal to or less than the number specified in Section [32B-1-201](#).

(b) Beginning July 1, 2012, four alcohol-related law enforcement officers shall have as a primary focus the enforcement of this title in relationship to restaurants.

(6) (a) Subject to Subsection (6)(b), the Utah attorney general's office shall expend money from the fund to supplement appropriations by the Legislature so that the attorney general's office can maintain legal counsel sufficient to represent the department in disciplinary

59 proceedings arising from the enforcement efforts of Department of Public Safety
60 alcohol-related enforcement officers provided for in Subsection (5).

61 (b) The attorney general's office may expend from this fund in a fiscal year the lesser
62 of:

- 63 (i) 80% of the fines and costs deposited into the fund in that fiscal year; or
- 64 (ii) \$180,000.

65 Section 2. Section **32B-3-205** is amended to read:

66 **32B-3-205. Penalties.**

67 (1) If the commission is satisfied that a person subject to administrative action violates
68 this title or the commission's rules, in accordance with Title 63G, Chapter 4, Administrative
69 Procedures Act, the commission may:

- 70 (a) suspend or revoke the person's license, permit, or certificate of approval;
- 71 (b) subject to Subsection (2), impose a fine against the person, including individual
72 staff of a licensee, permittee, or certificate holder;
- 73 (c) assess the administrative costs of a disciplinary proceeding to the person if the
74 person is a licensee, permittee, or certificate holder; or
- 75 (d) take a combination of actions described in this Subsection (1).

76 (2) (a) A fine imposed may not exceed \$25,000 in the aggregate for:

- 77 (i) a single notice of agency action; or
- 78 (ii) a single action against a package agency.

79 (b) The commission shall by rule establish a schedule setting forth a range of fines for
80 each violation.

81 (3) The commission shall transfer the fines and costs assessed under this section into
82 the [~~General Fund in accordance with Section 32B-2-301~~] Alcoholic Beverage Control Act
83 Enforcement Fund created in Section 32B-2-305.

84 (4) (a) If a license or permit is suspended under this section, the licensee or permittee
85 shall prominently display a sign provided by the department:

- 86 (i) during the suspension; and
- 87 (ii) at the entrance of the premises of the licensee or permittee.

88 (b) The sign required by this Subsection (4) shall:

- 89 (i) read "The Utah Alcoholic Beverage Control Commission has suspended the

90 alcoholic product license or permit of this establishment. An alcoholic product may not be
91 sold, offered for sale, furnished, or consumed on these premises during the period of
92 suspension."; and

93 (ii) include the dates of the suspension period.

94 (c) A licensee or permittee may not remove, alter, obscure, or destroy a sign required to
95 be displayed under this Subsection (4) during the suspension period.

96 (5) (a) If a license or permit is revoked, the commission may order the revocation of a
97 bond posted by the licensee or permittee under this title.

98 (b) Notwithstanding Subsection (5)(a), the department may make a claim against a
99 bond posted by a licensee or permittee for money owed the department under this title without
100 the commission first revoking the license or permit.

101 (6) A licensee or permittee whose license or permit is revoked may not reapply for a
102 license or permit under this title for three years from the date on which the license or permit is
103 revoked.

104 (7) If a staff member of a licensee, permittee, or certificate holder is found to have
105 violated this title, in addition to imposing another penalty authorized by this title, the
106 commission may prohibit the staff member from handling, selling, furnishing, distributing,
107 manufacturing, wholesaling, or warehousing an alcoholic product in the course of acting as
108 staff with a licensee, permittee, or certificate holder under this title for a period determined by
109 the commission.

110 (8) (a) If the commission makes the finding described in Subsection (8)(b), in addition
111 to other penalties prescribed by this title, the commission may order:

112 (i) the removal of an alcoholic product of the manufacturer's, supplier's, or importer's
113 from the department's sales list; and

114 (ii) a suspension of the department's purchase of an alcoholic product described in
115 Subsection (8)(a)(i) for a period determined by the commission.

116 (b) The commission may take the action described in Subsection (8)(a) if:

117 (i) a manufacturer, supplier, or importer of liquor or its staff or representative violates
118 this title; and

119 (ii) the manufacturer, supplier, or importer:

120 (A) directly commits the violation; or

121 (B) solicits, requests, commands, encourages, or intentionally aids another to engage in
122 the violation.

123 (9) If the commission makes a finding that the brewer holding a certificate of approval
124 violates this title or rules of the commission, the commission may take an action against the
125 brewer holding a certificate of approval that the commission could take against a licensee
126 including:

127 (a) suspension or revocation of the certificate of approval; and

128 (b) imposition of a fine.

129 (10) Notwithstanding the other provisions of this title, the commission may not order a
130 disciplinary action or fine in accordance with this section if the disciplinary action or fine is
131 ordered on the basis of a violation:

132 (a) of a provision in this title related to intoxication or becoming intoxicated; and

133 (b) if the violation is first investigated by a law enforcement officer, as defined in
134 Section 53-13-103, who has not received training regarding the requirements of this title
135 related to responsible alcoholic product sale or service.

136 Section 3. **Effective date.**

137 This bill takes effect on July 1, 2015.

Legislative Review Note

as of 1-16-15 3:39 PM

Office of Legislative Research and General Counsel