

1 **ALCOHOLIC BEVERAGE CONTROL FACILITATOR ACT**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Karen Mayne**

5 House Sponsor: _____

6

LONG TITLE

7 **General Description:**

8 This bill modifies the Alcoholic Beverage Control Act to enact the Alcoholic Beverage
9 Control Facilitator Act.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ provides for the appointment and removal of a facilitator;
- 14 ▶ addresses housing, staffing, and funding the facilitator;
- 15 ▶ outlines the duties of the facilitator;
- 16 ▶ imposes reporting requirements; and
- 17 ▶ provides for the director of the Department of Alcoholic Beverage Control to
- 18 respond to recommendations of the facilitator.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 ENACTS:

25 **32B-2-701**, Utah Code Annotated 1953

26 **32B-2-702**, Utah Code Annotated 1953



- 28 [32B-2-703](#), Utah Code Annotated 1953
- 29 [32B-2-704](#), Utah Code Annotated 1953
- 30 [32B-2-705](#), Utah Code Annotated 1953
- 31 [32B-2-706](#), Utah Code Annotated 1953

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

34 Section 1. Section **32B-2-701** is enacted to read:

35 **Part 7. Alcoholic Beverage Control Facilitator Act**

36 **32B-2-701. Title.**

37 This part is known as the "Alcoholic Beverage Control Facilitator Act."

38 Section 2. Section **32B-2-702** is enacted to read:

39 **32B-2-702. Definitions.**

40 As used in this part:

- 41 (1) "Employees" means employees of the department.
- 42 (2) "Facilitator" means the individual appointed under Section [32B-2-703](#).

43 Section 3. Section **32B-2-703** is enacted to read:

44 **32B-2-703. Appointment -- Staffing -- Budget.**

45 (1) (a) The governor shall appoint with the consent of the Senate a facilitator of
46 alcoholic beverage control for a term of four years.

47 (b) The governor may remove the facilitator for cause, neglect of duty, inefficiency, or
48 malfesance after a public hearing conducted by:

- 49 (i) the governor; or
- 50 (ii) an impartial hearing examiner appointed by the governor to conduct the hearing.
- 51 (c) At least 10 days before the hearing described in Subsection (1)(b), the governor

52 shall provide the facilitator notice of:

- 53 (i) the date, time, and place of the hearing; and
- 54 (ii) the alleged grounds for the removal.
- 55 (d) The facilitator shall have an opportunity to:
- 56 (i) attend the hearing;
- 57 (ii) present witnesses and other evidence; and
- 58 (iii) confront and cross-examine witnesses.

- 59 (e) After a hearing under this Subsection (1):
- 60 (i) the person conducting the hearing shall prepare written findings of fact and
- 61 conclusions of law; and
- 62 (ii) the governor shall serve a copy of the prepared findings and conclusions upon the
- 63 facilitator.
- 64 (f) If a hearing under this Subsection (1) is held before a hearing examiner, the hearing
- 65 examiner shall issue a written recommendation to the governor in addition to complying with
- 66 Subsection (1)(e).
- 67 (g) The facilitator has five days from the day on which the facilitator receives the
- 68 findings and conclusions described in Subsection (1)(e) to file with the governor written
- 69 objections to the recommendation before the governor issues a final order.
- 70 (h) The governor shall:
- 71 (i) issue the final order under this Subsection (1) in writing; and
- 72 (ii) serve the final order upon the facilitator.
- 73 (2) The facilitator shall have:
- 74 (a) a background in customer service;
- 75 (b) communication skills; and
- 76 (c) an ability to work with individuals inside and outside of government.
- 77 (3) The facilitator shall be housed within the administrative offices of the department
- 78 and staffed by the department. Expenses for the facilitator shall be included in the department's
- 79 budget.

80 Section 4. Section **32B-2-704** is enacted to read:

81 **32B-2-704. Duties.**

- 82 (1) The facilitator shall:
- 83 (a) support the department and commission in the implementation of the policies
- 84 outlined in Section [32B-1-103](#);
- 85 (b) assist state agencies, local authorities, individuals, permittees, licensees, and
- 86 employees in resolving problems with the department related to services and responsiveness;
- 87 (c) identify areas in which state agencies, local authorities, individuals, permittees,
- 88 licensees, and employees have problems in dealing with the department;
- 89 (d) to the extent possible, propose changes in the administrative practices of the

90 department to mitigate problems identified under Subsection (1)(c);

91 (e) establish procedures for and engage in receiving complaints, conducting
92 investigations, reporting findings, and issuing findings and recommendations;

93 (f) provide current information outlining the criteria for referral of inquiries to the
94 facilitator in a form that is easily accessible;

95 (g) provide information to interested parties about alcoholic beverage control laws
96 through seminars, publications, and other appropriate means;

97 (h) consult with the appropriate management employees of the department in carrying
98 out the facilitator's responsibilities; and

99 (i) meet regularly with the commission and director to identify serious problems and to
100 present recommendations for administrative action as may be appropriate to resolve problems
101 encountered by state agencies, local authorities, individuals, permittees, licensees, and
102 employees.

103 (2) The facilitator may not advocate or recommend changes to alcoholic beverage
104 control policy, including advocating or recommending policy changes requiring legislative or
105 administrative rule changes.

106 (3) Notwithstanding Subsection (1), the department has final authority regarding the
107 hiring, firing, or disciplining of an employee.

108 Section 5. Section **32B-2-705** is enacted to read:

109 **32B-2-705. Annual reports.**

110 (1) (a) By no later than October 31 of each calendar year, the facilitator shall report to
111 the Business and Labor Interim Committee for the immediately preceding fiscal year.

112 (b) The report required under this Subsection (1) shall contain substantive analysis and
113 statistical information, and shall:

114 (i) identify the recommendations the facilitator has made on improving services and
115 responsiveness of the department;

116 (ii) summarize the most pervasive and serious problems encountered by state agencies,
117 local authorities, individuals, permittees, licensees, and employees, including a description of
118 the nature of the problems;

119 (iii) contain an inventory of the items described in Subsections (1)(b)(i) and (ii) for
120 which action has been taken and the result of that action;

121 (iv) contain an inventory of the items described in Subsections (1)(b)(i) and (ii) for
122 which action remains to be completed and the period during which each item has remained on
123 the inventory;

124 (v) contain an inventory of the items described in Subsections (1)(b)(i) and (ii) for
125 which no action has been taken, the period during which each item has remained on the
126 inventory, and the reason for the inaction;

127 (vi) recommend administrative action as may be appropriate to resolve problems with
128 department services and responsiveness encountered by state agencies, local authorities,
129 individuals, permittees, licensees, and employees; and

130 (vii) include other information as the facilitator considers advisable.

131 (2) (a) Before submitting a report under Subsection (1), the facilitator shall submit a
132 draft report to the commission and the director by no later than August 31.

133 (b) The commission and the director shall provide to the facilitator any comments to
134 the report by no later than September 30.

135 (c) With the report required under Subsection (1), the facilitator shall submit to the
136 Business and Labor Interim Committee:

137 (i) a copy of the draft report submitted to the commission and the director;

138 (ii) comments from the commission and the director concerning the draft report; and

139 (iii) any amendments to the draft report made after submission of the draft report to the
140 commission and director.

141 Section 6. Section **32B-2-706** is enacted to read:

142 **32B-2-706. Responsibilities of the commission and department.**

143 The commission and the department shall establish procedures requiring a formal
144 response by the director to a recommendation made by the facilitator within a reasonable time
145 period not to exceed 90 days after submission of the recommendation to the director.