

**ALCOHOLIC BEVERAGE ENFORCEMENT AND
TREATMENT**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Michael G. Waddoups

This act modifies the Alcoholic Beverage Title and the Revenue and Taxation Title to increase the beer tax rate and to create the Alcoholic Beverage Enforcement and Treatment Restricted Account. This act makes technical changes. This act takes effect July 1, 2003.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

32A-1-115, as last amended by Chapter 287, Laws of Utah 2002

59-15-101, as last amended by Chapters 30 and 66, Laws of Utah 1992

59-15-109, as renumbered and amended by Chapter 2, Laws of Utah 1987

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

Section 1. Section **32A-1-115** is amended to read:

32A-1-115. Alcoholic Beverage Enforcement and Treatment Restricted Account -- Distribution to municipalities and counties.

(1) As used in this section:

(a) "Account" means the Alcoholic Beverage Enforcement and Treatment Restricted Account created in this section.

~~(a)~~ (b) "Alcohol-related offense" means:

(i) a violation of:

(A) Section 41-6-44; or

(B) an ordinance that complies with the requirements of:

(I) Subsection 41-6-43(1); or

(II) Section 76-5-207; or



28 (ii) an offense involving the:

29 (A) illegal sale of alcohol;

30 (B) illegal distribution of alcohol;

31 (C) illegal transportation of alcohol;

32 (D) illegal possession of alcohol; or

33 (E) illegal consumption of alcohol.

34 ~~[(b)]~~ (c) "Annual conviction time period" means the time period that:

35 (i) begins on July 1 and ends on June 30; and

36 (ii) immediately precedes the fiscal year for which an appropriation under this section
37 is made.

38 ~~[(e)]~~ (d) "Coordinating council" means the Utah Substance Abuse and Anti-Violence
39 Coordinating Council created in Section 63-25a-201.

40 ~~[(d)]~~ (e) "Municipality" means:

41 (i) a city; or

42 (ii) a town.

43 ~~[(2)(a)(i) Beginning with fiscal year 2007-08 and except as provided in Subsection~~
44 ~~(2)(a)(iii), the Legislature shall annually appropriate from the General Fund to municipalities~~
45 ~~and counties an amount not less than the greater of:]~~

46 ~~[(A) 40% of the proceeds of the beer excise tax deposited in the General Fund:]~~

47 ~~[(F) in accordance with Section 59-15-109; and]~~

48 ~~[(H) for the fiscal year two years preceding the fiscal year of the appropriation; or]~~

49 ~~[(B) \$4,350,000.]~~

50 ~~[(ii) For fiscal years 2003-04 through 2006-07 and except as provided in Subsection~~
51 ~~(2)(a)(iii), the Legislature shall appropriate an amount not to exceed the following amounts~~
52 ~~from the proceeds of the beer excise tax deposited in the General Fund in accordance with~~
53 ~~Section 59-15-109 to municipalities and counties:]~~

54 ~~[(A) for fiscal year 2003-04, \$3,044,000;]~~

55 ~~[(B) for fiscal year 2004-05, \$3,479,000;]~~

56 ~~[(C) for fiscal year 2005-06, \$3,914,000; and]~~

57 ~~[(D) for fiscal year 2006-07, \$4,350,000.]~~

58 ~~[(iii) Notwithstanding Subsection (2)(a)(i) or (ii), if the proceeds of the beer excise tax~~

59 deposited in the General Fund in accordance with Section 59-15-109 are less than the amount
 60 required to be appropriated under this Subsection (2)(a), the Legislature shall appropriate to
 61 municipalities and counties an amount equal to the beer excise tax deposited in the General
 62 Fund during the fiscal year two years preceding the fiscal year of the appropriation:]

63 [(iv) (A) The State Tax Commission shall notify the entities described in Subsection
 64 (2)(a)(iv)(B) not later than the September 1 preceding the fiscal year of the appropriation of:]

65 [(F) the amount of the proceeds of the beer excise tax deposited in the General Fund in
 66 accordance with Section 59-15-109 for the fiscal year two years preceding the fiscal year of the
 67 appropriation; and]

68 [(H) an amount equal to 40% of the amount listed in Subsection (2)(a)(iv)(A)(I).]

69 [(B) The notification required by Subsection (2)(a)(iv)(A) shall be sent to:]

70 [(F) the Governor's Office of Planning and Budget; and]

71 [(H) Legislative Fiscal Analyst.]

72 [(b) (i) The appropriations under Subsection (2)(a)]

73 (2) (a) There is created in the General Fund a restricted account called the "Alcoholic
 74 Beverage Enforcement and Treatment Restricted Account."

75 (b) The account shall be funded from:

76 (i) amounts deposited by the state treasurer in accordance with Section 59-15-109; ^h [and]

76a (ii) ANY APPROPRIATIONS MADE TO THE ACCOUNT BY THE LEGISLATURE; AND ^h

77 ^h [(ii)] (iii) ^h interest described in Subsection (2)(c).

78 (c) Interest earned on the account shall be deposited into the account.

79 (d) (i) The revenues in the account shall be used exclusively for programs or projects
 80 related to prevention, treatment, detection, prosecution, and control of violations of this title
 81 and other offenses in which alcohol is a contributing factor except as provided in Subsection
 82 (2)[(b)](d)(ii).

83 (ii) The portion distributed under this section to counties may also be used for the
 84 confinement or treatment of persons arrested for or convicted of offenses in which alcohol is a
 85 contributing factor.

86 (iii) Any municipality or county entitled to receive funds shall use the funds
 87 exclusively as required by this Subsection (2)[(b)](d).

88 [(e)] (iv) The appropriations provided for under Subsection [(2)(a)] (3) are:

89 (A) intended to supplement the budget of the appropriate agencies of each municipality

90 and county within the state to enable the municipalities and counties to more effectively fund
91 the programs and projects described [~~under Subsection (2)(b). The appropriations are~~] in this
92 Subsection (2)(d); and

93 (B) not intended to replace funds that would otherwise be allocated for [those] the
94 programs and projects in this Subsection (2)(d).

95 [~~(3)(a) The appropriations provided for in Subsection (2)(a) shall be distributed to~~
96 ~~municipalities and counties on the following basis:]~~

97 (3) (a) The revenues deposited into the account shall be distributed to municipalities
98 and counties:

99 (i) to the extent appropriated by the Legislature except that the Legislature shall
100 appropriate each fiscal year an amount \hat{h} [~~up to~~] **EQUAL TO AT LEAST \hat{h}** the amount deposited in the
100a account in accordance

101 with Section 59-15-109; and

102 (ii) as provided in this Subsection (3).

103 (b) The amount appropriated from the account shall be distributed as follows:

104 (i) 25% to municipalities and counties based upon the percentage of the state
105 population residing in each municipality and county;

106 (ii) 30% to municipalities and counties based upon each municipality's and county's
107 percentage of the statewide convictions for all alcohol-related offenses;

108 (iii) 20% to municipalities and counties based upon the percentage of all state stores,
109 package agencies, liquor licensees, and beer licensees in the state that are located in each
110 municipality and county; and

111 (iv) 25% to the counties for confinement and treatment purposes authorized by this
112 section based upon the percentage of the state population located in each county.

113 [~~(b)~~] (c) (i) Except as provided in Subsection (3)[~~(b)~~](c)(iii), a municipality that does
114 not have a law enforcement agency may not receive monies under this section.

115 (ii) The State Tax Commission:

116 (A) may not distribute the monies the municipality would receive but for the
117 municipality not having a law enforcement agency to that municipality; and

118 (B) shall distribute the monies that the municipality would have received but for it not
119 having a law enforcement agency to the county in which the municipality is located for use by
120 the county in accordance with this section.

121 (iii) Notwithstanding Subsections (3)[~~(b)~~](c)(i) and (ii), if the coordinating council
122 finds that a municipality described in Subsection (3)[~~(b)~~](c)(i) demonstrates that the
123 municipality can use the monies that the municipality is otherwise eligible to receive in
124 accordance with this section, the coordinating council may direct the State Tax Commission to
125 distribute the money to the municipality.

126 (4) To determine the distributions required by Subsection (3)[~~(a)~~](b)(ii), the State Tax
127 Commission shall annually:

128 (a) for an annual conviction time period:

129 (i) multiply by two the total number of convictions in the state obtained during the
130 annual conviction time period for violation of:

131 (A) Section 41-6-44; or

132 (B) an ordinance that complies with the requirements of Subsection 41-6-43(1) or
133 Section 76-5-207; and

134 (ii) add to the number calculated under Subsection (4)(a)(i) the number of convictions
135 obtained during the annual conviction time period for all alcohol-related offenses other than the
136 alcohol-related offenses described in Subsection (4)(a)(i);

137 (b) divide an amount equal to 30% of the appropriation for that fiscal year by the sum
138 obtained in Subsection (4)(a); and

139 (c) multiply the amount calculated under Subsection (4)(b), by the number of
140 convictions obtained in each municipality and county during the annual conviction time period
141 for alcohol-related offenses.

142 (5) For purposes of this section:

143 (a) the number of state stores, package agencies, and licensees located within the limits
144 of each municipality and county:

145 (i) is the number determined by the department to be so located;

146 (ii) includes all:

147 (A) private clubs;

148 (B) restaurants;

149 (C) airport lounges;

150 (D) package agencies; and

151 (E) state stores; and

- 152 (iii) does not include on-premise beer retailer licensees;
- 153 (b) the number of state stores, package agencies, and licensees in a county consists only
154 of that number located within unincorporated areas of the county;
- 155 (c) population figures shall be determined according to the most current population
156 estimates prepared by the Utah Population Estimates Committee;
- 157 (d) a county's population figure for the 25% distribution to municipalities and counties
158 under Subsection (3)~~(a)~~(b)(i) shall be determined only with reference to the population in the
159 unincorporated areas of the county;
- 160 (e) a county's population figure under Subsection (3)~~(a)~~(b)(iv) for the 25%
161 distribution to counties only shall be determined with reference to the total population in the
162 county, including that of municipalities;
- 163 (f) a conviction occurs in the municipality or county that actually prosecutes the
164 offense to judgment; and
- 165 (g) in the case of a conviction based upon a guilty plea, the conviction is considered to
166 occur in the municipality or county that, except for the guilty plea, would have prosecuted the
167 offense.
- 168 (6) By not later than September 1 each year:
 - 169 (a) the state court administrator shall certify to the State Tax Commission the number
170 of convictions obtained for alcohol-related offenses in each municipality or county in the state
171 during the annual conviction time period; and
 - 172 (b) the coordinating council shall notify the State Tax Commission of any municipality
173 that does not have a law enforcement agency.
- 174 (7) By not later than December 1 of each year, the coordinating council shall notify the
175 State Tax Commission for the fiscal year of appropriation of:
 - 176 (a) any municipality that may receive a distribution under Subsection (3)~~(b)~~(c)(iii);
 - 177 (b) any county that may receive a distribution allocated to a municipality described in
178 Subsection (3)~~(b)~~(c)(ii);
 - 179 (c) any municipality or county that may not receive a distribution because the
180 coordinating council has suspended the payment under Subsection (10)(a)(i); and
 - 181 (d) any municipality or county that receives a distribution because the suspension of
182 payment has been cancelled under Subsection (10)(a)(ii).

183 (8) (a) By not later than January 1 of the fiscal year of appropriation, the State Tax
184 Commission shall annually distribute to each municipality and county the portion of the
185 appropriation that the municipality or county is eligible to receive under this section, except for
186 any municipality or county that the coordinating council notifies the State Tax Commission in
187 accordance with Subsection (7) may not receive a distribution in that fiscal year.

188 (b) (i) The State Tax Commission shall prepare forms for use by municipalities and
189 counties in applying for distributions under this section.

190 (ii) The forms described in this Subsection (8) may require the submission of
191 information the State Tax Commission considers necessary to enable the State Tax
192 Commission to comply with this section.

193 (9) A municipality or county that receives any monies under this section during a fiscal
194 year shall by no later than October 1 following the fiscal year:

195 (a) report to the coordinating council:

196 (i) the programs or projects of the municipality or county that receive monies under
197 this section;

198 (ii) if the monies for programs or projects were exclusively used as required by
199 Subsection (2)~~(b)~~(d);

200 (iii) indicators of whether the programs or projects that receive monies under this
201 section are effective; and

202 (iv) if any monies received under this section were not expended by the municipality or
203 county; and

204 (b) provide the coordinating council a statement signed by the chief executive officer of
205 the county or municipality attesting that the monies received under this section were used in
206 addition to any monies appropriated or otherwise available for the county's or municipality's
207 law enforcement and were not used to supplant those monies.

208 (10) (a) The coordinating council may, by a majority vote:

209 (i) suspend future payments under Subsection (8) to a municipality or county that:

210 (A) does not file a report that meets the requirements of Subsection (9); or

211 (B) the coordinating council finds does not use the monies as required by Subsection
212 (2)~~(b)~~ (d) on the basis of the report filed by the municipality or county under Subsection (9);

213 and

214 (ii) cancel a suspension under Subsection (10)(a)(i).
 215 (b) The State Tax Commission shall:
 216 (i) retain monies that a municipality or county does not receive under Subsection
 217 (10)(a); and
 218 (ii) notify the coordinating council of the balance of retained monies under this
 219 Subsection (10)(b) after the annual distribution under Subsection (8).
 220 (11) (a) Subject to the requirements of this Subsection (11), the coordinating council
 221 shall award the balance of retained monies under Subsection (10)(b):
 222 (i) as prioritized by majority vote of the coordinating council; and
 223 (ii) as grants to:
 224 (A) a county;
 225 (B) a municipality; or
 226 (C) the Department of Public Safety.
 227 (b) By not later than May 30 of the fiscal year of the appropriation, the coordinating
 228 council shall notify the State Tax Commission of any grants awarded under this Subsection
 229 (11).
 230 (c) The State Tax Commission shall make payments of grants:
 231 (i) upon receiving notice as provided under Subsection (11)(b); and
 232 (ii) by not later than June 30 of the fiscal year of the appropriation.
 233 (d) An entity that receives a grant under this Subsection (11) shall use the grant monies
 234 exclusively for programs or projects described in Subsection (2)~~(b)~~(d).
 235 Section 2. Section **59-15-101** is amended to read:
 236 **59-15-101. Tax basis -- Rate.**
 237 (1) (a) A tax is imposed at the rate ~~[of \$11 per 31-gallon barrel]~~ specified in Subsection
 238 (1)(b) on all beer, as defined in Section 32A-1-105, ~~[which]~~ that is imported or manufactured
 239 for sale, use, or distribution in this state. ~~[This tax is]~~
 240 (b) The tax described in Subsection (1)(a) shall be imposed at a rate of:
 241 (i) \$11 per 31-gallon barrel for beer imported or manufactured:
 242 (A) before July 1, 2003; and
 243 (B) for sale, use, or distribution in this state; and
 244 (ii) ~~h~~ ~~[\$14]~~ **\$12.80** ~~h~~ per 31-gallon barrel for beer imported or manufactured:

245 (A) on or after July 1, 2003; and

246 (B) for sale, use, or distribution in this state.

247 (c) The tax imposed under this Subsection (1):

248 (i) shall be imposed at a proportionate rate for:

249 (A) any [other] quantity of beer other than a 31-gallon barrel; or [for]

250 (B) the fractional parts of a 31-gallon barrel; and

251 (ii) may not be imposed more than once on the same beer.

252 (2) A tax may not be [levied or] imposed on beer:

253 (a) sold to the United States and its agencies[, nor shall any tax be imposed on beer]; or

254 (b) (i) manufactured or imported for sale, use, or distribution outside the state; and

255 (ii) exported from the state.

256 Section 3. Section **59-15-109** is amended to read:

257 **59-15-109. Tax moneys to be paid to state treasurer.**

258 [All money received from the taxes imposed by]

259 Taxes collected under this chapter shall be paid by the commission to the state treasurer

260 daily for deposit [into the General Fund:] as follows:

261 (1) for fiscal year 2003-04:

262 (a) ~~h~~ ~~[\$3,044,000]~~ **\$2,525,666** ~~h~~ shall be deposited into the Alcoholic Beverage Enforcement and

263 Treatment Restricted Account created in Section 32A-1-115; and

264 (b) the revenue collected in excess of ~~h~~ ~~[\$3,044,000]~~ **\$2,525,666** ~~h~~ shall be deposited into the

264a General

265 Fund;

266 (2) for fiscal year 2004-05:

267 (a) ~~h~~ ~~[\$3,479,000]~~ **\$3,133,777** ~~h~~ shall be deposited into the Alcoholic Beverage Enforcement and

268 Treatment Restricted Account created in Section 32A-1-115; and

269 (b) the revenue collected in excess of ~~h~~ ~~[\$3,479,000]~~ **\$3,133,777** ~~h~~ shall be deposited into the

269a General

270 Fund;

271 (3) for fiscal year 2005-06:

272 (a) ~~h~~ ~~[\$3,914,000]~~ **\$3,741,888** ~~h~~ shall be deposited into the Alcoholic Beverage Enforcement and

273 Treatment Restricted Account created in Section 32A-1-115; and

274 (b) the revenue collected in excess of ~~h~~ ~~[\$3,914,000]~~ **\$3,741,888** ~~h~~ shall be deposited into the

274a General

275 Fund;

276 (4) for fiscal year 2006-07:
277 (a) \$4,350,000 shall be deposited into the Alcoholic Beverage Enforcement and
278 Treatment Restricted Account created in Section 32A-1-115; and
279 (b) the revenue collected in excess of \$4,350,000 shall be deposited into the General
280 Fund; and
281 (5) beginning with fiscal year 2007-08:
282 (a) the greater of the following shall be deposited into the Alcoholic Beverage
283 Enforcement and Treatment Restricted Account created in Section 32A-1-115:
284 (i) 40% of the revenue collected; or
285 (ii) \$4,350,000; and
286 (b) the revenue collected in excess of the amount deposited in accordance with
287 Subsection (5)(a) shall be deposited into the General Fund.
288 Section 4. **Effective date.**
289 This act takes effect on ~~h [July]~~ **MAY** ~~h~~ 1, 2003.

Legislative Review Note
as of 1-30-03 8:29 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

State Impact

Passage of this bill could increase beer tax collections by \$2,308,000 in FY 2004 and by \$2,825,000 in FY 2005. The Tax Commission would require an annual appropriation of \$3,200 from "Fixed Collections" to implement the provisions of the bill. The bill requires that \$3,044,000 of beer tax collections be deposited in the newly created Alcoholic Beverage Enforcement and Treatment Restricted Account in FY 2004 (\$3,479,000 in FY 2005). The bill shifts the required appropriation of \$3,044,000 in FY 2004 (\$3,479,000 in FY 2005) from the General Fund and will now be appropriated from the new Restricted Account.

	<u>FY 04 Approp.</u>	<u>FY 05 Approp.</u>	<u>FY 04 Revenue</u>	<u>FY 05 Revenue</u>
General Fund	(\$3,044,000)	(\$3,479,000)	(\$736,000)	(\$654,000)
Fixed Collections	\$3,200	\$3,200	\$0	\$0
Restricted Funds	\$3,044,000	\$3,479,000	\$3,044,000	\$3,479,000
TOTAL	<u><u>\$3,200</u></u>	<u><u>\$3,200</u></u>	<u><u>\$2,308,000</u></u>	<u><u>\$2,825,000</u></u>

Individual and Business Impact

Beer tax will increase by \$3 a barrel beginning in FY 2004.
