

**SCHOOL MEALS PROGRAM AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Dan N. Johnson**

Senate Sponsor: Lyle W. Hillyard

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**LONG TITLE**

**General Description:**

This bill amends provisions related to funding regarding school meals.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions to broaden the use of school lunch revenues to school meals; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**32B-2-304**, as last amended by Laws of Utah 2019, Chapter 403

**53E-3-510**, as last amended by Laws of Utah 2019, Chapter 186

**53G-9-205**, as last amended by Laws of Utah 2019, Chapter 293

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

Section 1. Section **32B-2-304** is amended to read:

**32B-2-304. Liquor price -- School lunch program -- Remittance of markup.**

(1) For purposes of this section:

(a) (i) "Landed case cost" means:

- 29 (A) the cost of the product; and
- 30 (B) inbound shipping costs incurred by the department.
- 31 (ii) "Landed case cost" does not include the outbound shipping cost from a warehouse
- 32 of the department to a state store.
- 33 (b) "Proof gallon" means the same as that term is defined in 26 U.S.C. Sec. 5002.
- 34 (c) Notwithstanding Section [32B-1-102](#), "small brewer" means a brewer who
- 35 manufactures in a calendar year less than 40,000 barrels of beer, heavy beer, and flavored malt
- 36 beverage.
- 37 (2) Except as provided in Subsection (3):
- 38 (a) spirituous liquor sold by the department within the state shall be marked up in an
- 39 amount not less than 88% above the landed case cost to the department;
- 40 (b) wine sold by the department within the state shall be marked up in an amount not
- 41 less than 88% above the landed case cost to the department;
- 42 (c) heavy beer sold by the department within the state shall be marked up in an amount
- 43 not less than 66.5% above the landed case cost to the department; and
- 44 (d) a flavored malt beverage sold by the department within the state shall be marked up
- 45 in an amount not less than 88% above the landed case cost to the department.
- 46 (3) (a) Liquor sold by the department to a military installation in Utah shall be marked
- 47 up in an amount not less than 17% above the landed case cost to the department.
- 48 (b) Except for spirituous liquor sold by the department to a military installation in
- 49 Utah, spirituous liquor that is sold by the department within the state shall be marked up 49%
- 50 above the landed case cost to the department if:
- 51 (i) the spirituous liquor is manufactured by a manufacturer producing less than 30,000
- 52 proof gallons of spirituous liquor in a calendar year; and
- 53 (ii) the manufacturer applies to the department for a reduced markup.
- 54 (c) Except for wine sold by the department to a military installation in Utah, wine that
- 55 is sold by the department within the state shall be marked up 49% above the landed case cost to

56 the department if:

57 (i) (A) except as provided in Subsection (3)(c)(i)(B), the wine is manufactured by a  
58 manufacturer producing less than 20,000 gallons of wine in a calendar year; or

59 (B) for hard cider, the hard cider is manufactured by a manufacturer producing less  
60 than 620,000 gallons of hard cider in a calendar year; and

61 (ii) the manufacturer applies to the department for a reduced markup.

62 (d) Except for heavy beer sold by the department to a military installation in Utah,  
63 heavy beer that is sold by the department within the state shall be marked up 32% above the  
64 landed case cost to the department if:

65 (i) a small brewer manufactures the heavy beer; and

66 (ii) the small brewer applies to the department for a reduced markup.

67 (e) The department shall verify an amount described in Subsection (3)(b), (c), or (d)  
68 pursuant to a federal or other verifiable production report.

69 (f) For purposes of determining whether an alcoholic product qualifies for a markup  
70 under this Subsection (3), the department shall evaluate whether the manufacturer satisfies the  
71 applicable production requirement without considering the manufacturer's production of any  
72 other type of alcoholic product.

73 (4) The department shall deposit 10% of the total gross revenue from sales of liquor  
74 with the state treasurer to be credited to the Uniform School Fund and used to support the  
75 school ~~[lunch]~~ meals program administered by the State Board of Education under Section  
76 [53E-3-510](#).

77 (5) This section does not prohibit the department from selling discontinued items at a  
78 discount.

79 Section 2. Section **53E-3-510** is amended to read:

80 **53E-3-510. Control of school meals program revenues -- Apportionment -- Costs.**

81 (1) (a) School ~~[lunch]~~ meals program revenues shall be under the control of the state  
82 board and may only be disbursed, transferred, or drawn upon by ~~[its]~~ the state board's order.

83           (b) The ~~[revenue]~~ school meals program revenues may only be used to provide school  
84 ~~[lunches]~~ meals and a school ~~[lunch]~~ meals program in the state's ~~[school districts]~~ LEAs in  
85 accordance with standards established by the state board.

86           (2) (a) The state board shall apportion the ~~[revenue]~~ school meals program revenues  
87 according to the number of school children receiving school ~~[lunches]~~ meals in each ~~[school~~  
88 ~~district]~~ LEA.

89           (b) The state board and ~~[local school]~~ LEA governing boards shall employ staff to  
90 administer and supervise the school ~~[lunch]~~ meals program and purchase supplies and  
91 equipment.

92           (3) The costs of the school ~~[lunch]~~ meals program shall be included in the state board's  
93 annual budget.

94           Section 3. Section **53G-9-205** is amended to read:

95           **53G-9-205. School Breakfast Program -- Review of nonparticipants -- Reporting.**

96           (1) (a) ~~[Each local school]~~ Beginning with the 2020-21 academic year, each LEA  
97 governing board shall~~[, at least once every three years,]~~ annually review each ~~[elementary]~~  
98 school in ~~[its district]~~ the LEA governing board's authority that does not participate in the  
99 School Breakfast Program as to the school's reasons for nonparticipation.

100           ~~[(b) (i) If the local school board determines that there are valid reasons for the school's~~  
101 ~~nonparticipation, no further action is needed.]~~

102           ~~[(ii)]~~ (b) Reasons for nonparticipation may include a recommendation from the  
103 respective school community council authorized under Section 53G-7-1202 or ~~[a similar group~~  
104 ~~of parents and school employees that the school should not participate in the program]~~ charter  
105 trust land council established under Section 53G-7-1205.

106           ~~[(2) (a) After two nonparticipation reviews, a local school board may, by majority vote,~~  
107 ~~waive any further reviews of the nonparticipatory school.]~~

108           ~~[(b) A waiver of the review process under Subsection (2)(a) does not prohibit~~  
109 ~~subsequent consideration by the local school board of an individual school's nonparticipation in~~

110 ~~the School Breakfast Program.]~~

111           ~~(1)~~ (2) The requirements of this section shall be nullified by the termination of the

112 entitlement status of the School Breakfast Program by the federal government.