

1 **ALCOHOLIC BEVERAGE CONTROL COMMISSION**

2 **AMENDMENTS**

3 2012 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Brian Doughty**

6 **Senate Sponsor: _____**

7

8 LONG TITLE

9 **General Description:**

10 This bill modifies the Alcoholic Beverage Control Act to modify requirements for
11 appointment of commissioners.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ requires that ~~Ĥ→ a ←Ĥ~~ certain ~~Ĥ→ [percentages related to political affiliation and being~~
14a ~~regular] number of commissioners be ←Ĥ~~
15 consumers of an alcoholic product ~~Ĥ→ [be met in making appointments to the~~
16 ~~commission] and a certain number be from different professions or occupations ←Ĥ ;~~

- 17 ▶ provides for a transition; and
- 18 ▶ makes technical changes.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 ~~Ĥ→ [None]~~ **This bill coordinates with S.B. 66, Alcoholic Beverage Control Related**
22a **Amendments, to merge substantive changes.** ←Ĥ

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **32B-2-201**, as last amended by Laws of Utah 2011, Chapters 308 and 334

25a ~~Ĥ→~~ **Utah Code Sections Affected by Coordination Clause:**

25b **32B-2-201**, as last amended by Laws of Utah 2011, Chapters 308 and 334 ←Ĥ

26

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



28 Section 1. Section 32B-2-201 is amended to read:

29 **32B-2-201. Alcoholic Beverage Control Commission created.**

30 (1) There is created the "Alcoholic Beverage Control Commission." The commission is
31 the governing board over the department.

32 (2) (a) The commission is composed of five part-time commissioners appointed by the
33 governor with the consent of the Senate.

34 (b) No more than ~~five~~ [F] **three** [H] ~~[60% of the]~~ ~~commissioners~~ may be of the same
34a political party.

35 (c) (i) At least ~~two~~ ~~of the commissioners~~ shall, for at least one year
35a before being

36 appointed and during their term, be ~~regular~~ ~~consumers of an alcoholic product~~
36a purchased from

37 an entity authorized to sell alcoholic products. ~~As used in this Subsection (2)(c), "regular"~~
38 ~~means happening or recurring not less than once a month.~~

39 (ii) The governor shall require an individual to sign an affidavit verifying compliance
40 with Subsection (2)(c)(i) as a condition of appointment under this Subsection (2)(c).

41 (iii) If as of July 1, 2012, there are not at least ~~two~~ ~~of the commissioners~~
41a who meet the

42 requirements of Subsection (2)(c)(i), as terms of commissioners expire the governor shall

43 appoint a new commissioner or ~~a reappointed~~ ~~reappoint a~~ ~~commissioner in a manner~~
43a that brings the

44 commission ~~in~~ ~~into~~ ~~compliance with this Subsection (2)(c).~~

44a ~~(d)(i) No more than two commissioners shall have the same profession or occupation.~~

44b (ii) If as of July 1, 2012, there are more than two commissioners with the same

44c profession or occupation, as terms of commissioners expire, the governor shall appoint a new

44d commissioner or reappoint a commissioner in a manner that brings the commission into

44e compliance with this Subsection (2)(d).

45 (3) (a) Except as required by Subsection (3)(b), as terms of commissioners expire, the
46 governor shall appoint each new commissioner or reappointed commissioner to a four-year
47 term.

48 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the
49 time of appointment or reappointment, adjust the length of terms to ensure that the terms of no
50 more than two commissioners expire in a fiscal year.

51 (4) (a) When a vacancy occurs on the commission for any reason, the governor shall

52 appoint a replacement for the unexpired term with the consent of the Senate.

53 (b) Unless removed in accordance with Subsection (6), a commissioner shall remain on
54 the commission after the expiration of a term until a successor is appointed by the governor,
55 with the consent of the Senate.

56 (5) A commissioner shall take the oath of office.

57 (6) (a) The governor may remove a commissioner from the commission for cause after
58 a public hearing conducted by:

59 (i) the governor; or
60 (ii) an impartial hearing examiner appointed by the governor to conduct the hearing.

61 (b) At least 10 days before the hearing described in Subsection (6)(a), the governor
62 shall provide the commissioner notice of:

63 (i) the date, time, and place of the hearing; and

64 (ii) the alleged grounds for the removal.

65 (c) The commissioner shall have an opportunity to:

66 (i) attend the hearing;

67 (ii) present witnesses and other evidence; and

68 (iii) confront and cross examine witnesses.

69 (d) After a hearing under this Subsection (6):

70 (i) the person conducting the hearing shall prepare written findings of fact and
71 conclusions of law; and

72 (ii) the governor shall serve a copy of the prepared findings and conclusions upon the
73 commissioner.

74 (e) If a hearing under this Subsection (6) is held before a hearing examiner, the hearing
75 examiner shall issue a written recommendation to the governor in addition to complying with
76 Subsection (6)(d).

77 (f) A commissioner has five days from the day on which the commissioner receives the
78 findings and conclusions described in Subsection (6)(d) to file written objections to the
79 recommendation before the governor issues a final order.

80 (g) The governor shall:

81 (i) issue the final order under this Subsection (6) in writing; and

82 (ii) serve the final order upon the commissioner.

83 (7) A commissioner may not receive compensation or benefits for the commissioner's
84 service, but may receive per diem and travel expenses in accordance with:

85 (a) Section 63A-3-106;

86 (b) Section 63A-3-107; and

87 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
88 63A-3-107.

89 (8) (a) The governor shall annually appoint the chair of the commission. A

90 commissioner serves as chair to the commission at the pleasure of the governor.

91 (b) The commission shall elect:

92 (i) another commissioner to serve as vice chair; and

93 (ii) other commission officers as the commission considers advisable.

94 (c) A commissioner elected under Subsection (8)(b) shall serve in the office to which
95 the commissioner is elected at the pleasure of the commission.

96 (9) (a) Each commissioner has equal voting rights on a commission matter when in
97 attendance at a commission meeting.

98 (b) Three commissioners is a quorum for conducting commission business.

99 (c) A majority vote of the quorum present at a meeting is required for the commission
100 to act.

101 (10) (a) The commission shall meet at least monthly, but may hold other meetings at
102 times and places as scheduled by:

103 (i) the commission;

104 (ii) the chair; or

105 (iii) three commissioners upon filing a written request for a meeting with the chair.

106 (b) Notice of the time and place of a commission meeting shall be given to each
107 commissioner, and to the public in compliance with Title 52, Chapter 4, Open and Public
108 Meetings Act. A commission meeting is open to the public, except for a commission meeting
109 or portion of a commission meeting that is closed by the commission as authorized by Sections
110 52-4-204 and 52-4-205.

110a **H→ Section 2. Coordinating H.B. 193 with S.B. 66 -- Merging substantive amendments**

110b **If this H.B. 193 and S.B. 66, Alcoholic Beverage Control Related Amendments, both**
110c **pass and become law, the Legislature intends that:**

110d **(1) the references in Subsection 32B-2-201(2)(c) to "two" be replaced with "three";**

110e **(2) the references in Subsection 32B-2-201(2)(d) to "two" be replaced with "three"; and**

110f **(3) the Office of Legislative Research and General Counsel make the changes described**
110g **in this section when preparing the Utah Code database for publication. ←H**

Legislative Review Note
as of 2-3-12 9:39 AM

Office of Legislative Research and General Counsel