

1 **ALCOHOLIC BEVERAGE CONTROL RETAIL STORE**

2 **AMENDMENTS**

3 2021 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Gene Davis**

6 House Sponsor: Timothy D. Hawkes

8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Alcoholic Beverage Control Act regarding financing.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ amends what is included in the Department of Alcoholic Beverage Control's base
14 budget.

15 **Money Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **32B-2-301**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

22 **63J-1-602.2**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapters 20
23 and 20

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

26 Section 1. Section **32B-2-301** is amended to read:

27 **32B-2-301. State property -- Liquor Control Fund -- Money to be retained by**
28 **department -- Department building process.**

29 (1) As used in this section, "base budget" means the same as that term is defined in

30 legislative rule.

31 (2) The following are property of the state:

32 (a) the money received in the administration of this title, except as otherwise provided;

33 and

34 (b) property acquired, administered, possessed, or received by the department.

35 [~~(2)~~] (3) (a) There is created an enterprise fund known as the "Liquor Control Fund."

36 (b) Except as provided in Section 32B-2-304, the department shall deposit the

37 following into the Liquor Control Fund:

38 (i) money received in the administration of this title;

39 (ii) money received from the markup described in Section 32B-2-304; and

40 (iii) money credited under Subsection [~~(3)~~] (4).

41 (c) The department may draw from the Liquor Control Fund only to the extent

42 appropriated by the Legislature or provided by statute.

43 (d) The net position of the Liquor Control Fund may not fall below zero.

44 [~~(3)~~] (4) (a) The department shall deposit 0.125% of the total gross revenue from the
45 sale of liquor with the state treasurer to be credited to the Liquor Control Fund.

46 (b) The department shall deposit 0.27% of the total gross revenue from the sale of
47 liquor with the state treasurer, as determined by the total gross revenue collected for the fiscal
48 year two years preceding the fiscal year for which the deposit is made, to be credited to the
49 Liquor Control Fund.

50 [~~(4)~~] (5) (a) Notwithstanding Subsection [~~(2)~~] (3)(c), the department may draw by
51 warrant from the Liquor Control Fund without an appropriation for an expenditure that is
52 directly incurred by the department:

53 (i) to purchase an alcoholic product;

54 (ii) to transport an alcoholic product from the supplier to a warehouse of the
55 department; or

56 (iii) for variances related to an alcoholic product, including breakage or theft.

57 (b) If the balance of the Liquor Control Fund is not adequate to cover a warrant that the

58 department draws against the Liquor Control Fund, to the extent necessary to cover the
59 warrant, the cash resources of the General Fund may be used.

60 ~~[(5) (a) As used in this Subsection (5), "base budget" means the same as that term is~~
61 ~~defined in legislative rule.]~~

62 ~~[(b)]~~ (6) The department's base budget shall include as an appropriation from the
63 Liquor Control Fund:

64 ~~[(i)]~~ (a) credit card related fees paid by the department;

65 ~~[(ii)]~~ (b) package agency compensation; ~~[and]~~

66 ~~[(iii)]~~ (c) the department's costs of shipping and warehousing alcoholic products~~[-];~~ and

67 (d) the amount needed, as the Department of Human Resource Management
68 determines, to make the median department salary in the previous fiscal year equal the median
69 market salary in the previous fiscal year for the following positions:

70 (i) state store manager or equivalent;

71 (ii) state store assistant manager or equivalent;

72 (iii) full-time sales clerk at a state store or equivalent;

73 (iv) part-time sales clerk at a state store or equivalent;

74 (v) department warehouse manager or equivalent;

75 (vi) department warehouse assistant manager or equivalent;

76 (vii) full-time department warehouse worker or equivalent; and

77 (viii) part-time department warehouse worker or equivalent.

78 ~~[(6)]~~ (7) (a) The Division of Finance shall transfer annually from the Liquor Control
79 Fund to the General Fund a sum equal to the amount of net profit earned from the sale of liquor
80 since the preceding transfer of money under this Subsection ~~[(6)]~~ (7).

81 (b) After each fiscal year, the Division of Finance shall calculate the amount for the
82 transfer on or before September 1 and the Division of Finance shall make the transfer on or
83 before September 30.

84 (c) The Division of Finance may make year-end closing entries in the Liquor Control
85 Fund to comply with Subsection 51-5-6(2).

86 [~~7~~] (8) (a) By the end of each day, the department shall:

87 (i) make a deposit to a qualified depository, as defined in Section 51-7-3; and

88 (ii) report the deposit to the state treasurer.

89 (b) A commissioner or department employee is not personally liable for a loss caused
90 by the default or failure of a qualified depository.

91 (c) Money deposited in a qualified depository is entitled to the same priority of
92 payment as other public funds of the state.

93 [~~8~~] (9) Before the Division of Finance makes the transfer described in Subsection
94 [~~6~~] (7), the department may retain each fiscal year from the Liquor Control Fund \$1,000,000
95 that the department may use for:

96 (a) capital equipment purchases;

97 (b) salary increases for department employees;

98 (c) performance awards for department employees; or

99 (d) information technology enhancements because of changes or trends in technology.

100 Section 2. Section 63J-1-602.2 is amended to read:

101 **63J-1-602.2. List of nonlapsing appropriations to programs.**

102 Appropriations made to the following programs are nonlapsing:

103 (1) The Legislature and the Legislature's committees.

104 (2) The State Board of Education, including all appropriations to agencies, line items,
105 and programs under the jurisdiction of the State Board of Education, in accordance with
106 Section 53F-9-103.

107 (3) The Percent-for-Art Program created in Section 9-6-404.

108 (4) The LeRay McAllister Critical Land Conservation Program created in Section
109 11-38-301.

110 (5) Dedicated credits accrued to the Utah Marriage Commission as provided under
111 Subsection 17-16-21(2)(d)(ii).

112 (6) The Trip Reduction Program created in Section 19-2a-104.

113 (7) The Division of Wildlife Resources for the appraisal and purchase of lands under

- 114 the Pelican Management Act, as provided in Section [23-21a-6](#).
- 115 (8) The emergency medical services grant program in Section [26-8a-207](#).
- 116 (9) The primary care grant program created in Section [26-10b-102](#).
- 117 (10) Sanctions collected as dedicated credits from Medicaid provider under Subsection
118 [26-18-3\(7\)](#).
- 119 (11) The Utah Health Care Workforce Financial Assistance Program created in Section
120 [26-46-102](#).
- 121 (12) The Rural Physician Loan Repayment Program created in Section [26-46a-103](#).
- 122 (13) The Opiate Overdose Outreach Pilot Program created in Section [26-55-107](#).
- 123 (14) Funds that the Department of Alcoholic Beverage Control retains in accordance
124 with Subsection [~~[32B-2-301\(8\)\(a\)](#)~~] [32B-2-301\(9\)\(a\)](#) or (b).
- 125 (15) The General Assistance program administered by the Department of Workforce
126 Services, as provided in Section [35A-3-401](#).
- 127 (16) A new program or agency that is designated as nonlapsing under Section
128 [36-24-101](#).
- 129 (17) The Utah National Guard, created in Title 39, Militia and Armories.
- 130 (18) The State Tax Commission under Section [41-1a-1201](#) for the:
- 131 (a) purchase and distribution of license plates and decals; and
- 132 (b) administration and enforcement of motor vehicle registration requirements.
- 133 (19) The Search and Rescue Financial Assistance Program, as provided in Section
134 [53-2a-1102](#).
- 135 (20) The Motorcycle Rider Education Program, as provided in Section [53-3-905](#).
- 136 (21) The Utah Board of Higher Education for teacher preparation programs, as
137 provided in Section [53B-6-104](#).
- 138 (22) The Medical Education Program administered by the Medical Education Council,
139 as provided in Section [53B-24-202](#).
- 140 (23) The Division of Services for People with Disabilities, as provided in Section
141 [62A-5-102](#).

142 (24) The Division of Fleet Operations for the purpose of upgrading underground
143 storage tanks under Section [63A-9-401](#).

144 (25) The Utah Seismic Safety Commission, as provided in Section [63C-6-104](#).

145 (26) Appropriations to the Department of Technology Services for technology
146 innovation as provided under Section [63F-4-202](#).

147 (27) The Office of Administrative Rules for publishing, as provided in Section
148 [63G-3-402](#).

149 (28) The Governor's Office of Economic Development to fund the Enterprise Zone
150 Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

151 (29) Appropriations to fund the Governor's Office of Economic Development's Rural
152 Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural
153 Employment Expansion Program.

154 (30) Appropriations to fund programs for the Jordan River Recreation Area as
155 described in Section [65A-2-8](#).

156 (31) The Department of Human Resource Management user training program, as
157 provided in Section [67-19-6](#).

158 (32) A public safety answering point's emergency telecommunications service fund, as
159 provided in Section [69-2-301](#).

160 (33) The Traffic Noise Abatement Program created in Section [72-6-112](#).

161 (34) The Judicial Council for compensation for special prosecutors, as provided in
162 Section [77-10a-19](#).

163 (35) A state rehabilitative employment program, as provided in Section [78A-6-210](#).

164 (36) The Utah Geological Survey, as provided in Section [79-3-401](#).

165 (37) The Bonneville Shoreline Trail Program created under Section [79-5-503](#).

166 (38) Adoption document access as provided in Sections [78B-6-141](#), [78B-6-144](#), and
167 [78B-6-144.5](#).

168 (39) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent
169 Defense Commission.

170 (40) The program established by the Division of Facilities Construction and
171 Management under Section [63A-5b-703](#) under which state agencies receive an appropriation
172 and pay lease payments for the use and occupancy of buildings owned by the Division of
173 Facilities Construction and Management.