

Alcoholic Beverage Enforcement and Treatment Restricted Account Act Effective July 1, 2014

Utah Code

Title 32B Alcoholic Beverage Control Act

Section 401 Alcoholic Beverage Enforcement and Treatment Restricted Account Act

32B-2-401. Title.

This part is known as the "Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act."

Amended by Chapter 119, 2014 General Session

32B-2-402. Definitions -- Calculations.

- (1) As used in this part:
 - (a) "Account" means the Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account created in Section [32B-2-403](#).
 - (b) "Advisory council" means the Utah Substance Abuse Advisory Council created in Section [63M-7-301](#).
 - (c) "Alcohol-related offense" means:
 - (i) a violation of:
 - (A) Section [41-6a-502](#); or
 - (B) an ordinance that complies with the requirements of:
 - (I) Subsection [41-6a-510\(1\)](#); or
 - (II) Section [76-5-207](#); or
 - (ii) an offense involving the illegal:
 - (A) sale of an alcoholic product;
 - (B) consumption of an alcoholic product;
 - (C) distribution of an alcoholic product;
 - (D) transportation of an alcoholic product; or
 - (E) possession of an alcoholic product.
 - (d) "Annual conviction time period" means the time period that:
 - (i) begins on July 1 and ends on June 30; and
 - (ii) immediately precedes the fiscal year for which an appropriation under this part is made.
 - (e) "Municipality" means:
 - (i) a city; or
 - (ii) a town.
 - (f) (i) "Prevention" is as defined by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the Division of Substance Abuse and Mental Health within the Department of Human Services.
 - (ii) In defining the term "prevention," the Division of Substance Abuse and Mental Health shall:
 - (A) include only evidence-based or evidence-informed programs; and
 - (B) provide for coordination with local substance abuse authorities designated to provide substance abuse services in accordance with Section [17-43-201](#).
- (2) For purposes of Subsection [32B-2-404\(1\)\(b\)\(iii\)](#), the number of premises located within the limits of a municipality or county:
 - (a) is the number determined by the department to be so located;
 - (b) includes the aggregate number of premises of the following:
 - (i) a state store;
 - (ii) a package agency; and
 - (iii) a retail licensee; and
 - (c) for a county, consists only of the number located within an unincorporated area of the county.

- (3) The department shall determine:
 - (a) a population figure according to the most current population estimate prepared by the Utah Population Estimates Committee;
 - (b) a county's population for the 25% distribution to municipalities and counties under Subsection **32B-2-404**(1)(b)(i) only with reference to the population in the unincorporated areas of the county; and
 - (c) a county's population for the 25% distribution to counties under Subsection **32B-2-404**(1)(b)(iv) only with reference to the total population in the county, including that of a municipality.
- (4) (a) A conviction occurs in the municipality or county that actually prosecutes the offense to judgment.
 - (b) If a conviction is based upon a guilty plea, the conviction is considered to occur in the municipality or county that, except for the guilty plea, would have prosecuted the offense.

Amended by Chapter 119, 2014 General Session

32B-2-403. Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account created.

- (1) (a) There is created in the General Fund a restricted account known as the "Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account."
 - (b) The account is funded from:
 - (i) money deposited by the state treasurer in accordance with Section **59-15-109**;
 - (ii) appropriations made to the account by the Legislature; and
 - (iii) interest described in Subsection (1)(c).
 - (c) Interest earned on the account shall be deposited into the account.
- (2) (a) Consistent with the policies provided in Subsection **32B-1-103**(4)(b), money in the account shall be used for statewide public purposes, including promoting the reduction of the harmful effects of substance abuse, over consumption of alcoholic products by an adult, and alcohol consumption by minors, by exclusively funding programs or projects related to prevention, treatment, detection, prosecution, and control of violations of this title and other offenses in which alcohol or substance abuse is a contributing factor except as provided in Subsection (2)(b).
 - (b) The portion distributed under this part to a county may also be used for the confinement or treatment of persons arrested for or convicted of offenses in which alcohol or substance abuse is a contributing factor.
 - (c) A municipality or county entitled to receive money shall use the money exclusively as required by this Subsection (2).
- (3) The appropriations provided for under Section **32B-2-404** are:
 - (a) intended to supplement the budget of the appropriate agencies of each municipality and county within the state to enable the municipalities and counties to more effectively fund the programs and projects described in Subsection (2); and
 - (b) not intended to replace money that would otherwise be allocated for the programs and projects in Subsection (2).
- (4) It is the intent of the Legislature that the appropriations distributed under this part be used to fund a balanced approach to reducing the harmful effects of substance abuse, over consumption of alcoholic products by adults, and alcohol consumption by minors. To this end, the Legislature encourages municipalities and counties receiving money under this part to use the most effective formula allocation to fund evidence-based and evidence-informed prevention programs.

Amended by Chapter 119, 2014 General Session

32B-2-404. Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account distribution.

- (1) (a) The money deposited into the account under Section **32B-2-403** shall be distributed to municipalities and counties:

(i) to the extent appropriated by the Legislature, except that the Legislature shall appropriate each fiscal year an amount equal to at least the amount deposited in the account in accordance with Section 59-15-109; and

(ii) as provided in this Subsection (1).

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

(i) 25% to municipalities and counties on the basis of the percentage of the state population residing in each municipality and county;

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

(iii) 20% to municipalities and counties on the basis of the percentage of the following in the state that are located in each municipality and county:

(A) state stores;

(B) package agencies;

(C) retail licensees; and

(D) off-premise beer retailers; and

(iv) 25% to the counties for confinement and treatment purposes authorized by this part on the basis of the percentage of the state population located in each county.

(c) (i) Except as provided in Subsection (1)(c)(ii), if a municipality does not have a law enforcement agency:

(A) the municipality may not receive money under this part; and

(B) the State Tax Commission:

(I) may not distribute the money the municipality would receive but for the municipality not having a law enforcement agency to that municipality; and

(II) shall distribute the money that the municipality would have received but for it not having a law enforcement agency to the county in which the municipality is located for use by the county in accordance with this part.

(ii) If the advisory council finds that a municipality described in Subsection (1)(c)(i) demonstrates that the municipality can use the money that the municipality is otherwise eligible to receive in accordance with this part, the advisory council may direct the State Tax Commission to distribute the money to the municipality.

(2) To determine the distribution required by Subsection (1)(b)(ii), the State Tax Commission shall annually:

(a) for an annual conviction time period:

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

(A) Section 41-6a-502; or

(B) an ordinance that complies with the requirements of Subsection 41-6a-510(1) or Section 76-5-207; and

(ii) add to the number calculated under Subsection (2)(a)(i) the number of convictions obtained during the annual conviction time period for the alcohol-related offenses other than the alcohol-related offenses described in Subsection (2)(a)(i);

(b) divide an amount equal to 30% of the appropriation for that fiscal year by the sum obtained in Subsection (2)(a); and

(c) multiply the amount calculated under Subsection (2)(b), by the number of convictions obtained in each municipality and county during the annual conviction time period for alcohol-related offenses.

(3) By not later than September 1 each year:

(a) the state court administrator shall certify to the State Tax Commission the number of convictions obtained for alcohol-related offenses in each municipality or county in the state during the annual conviction time period; and

(b) the advisory council shall notify the State Tax Commission of any municipality that does not have a law enforcement agency.

(4) By not later than December 1 of each year, the advisory council shall notify the State Tax Commission for the fiscal year of appropriation of:

(a) a municipality that may receive a distribution under Subsection (1)(c)(ii);

(b) a county that may receive a distribution allocated to a municipality described in Subsection (1)(c)(i);

(c) a municipality or county that may not receive a distribution because the advisory council has suspended the payment under Subsection 32B-2-405(2)(a); and

(d) a municipality or county that receives a distribution because the suspension of payment has been cancelled under Subsection 32B-2-405(2).

(5) (a) By not later than January 1 of the fiscal year of appropriation, the State Tax Commission shall annually distribute to each municipality and county the portion of the appropriation that the municipality or county is eligible to receive under this part, except for any municipality or county that the advisory council notifies the State Tax Commission in accordance with Subsection (4) may not receive a distribution in that fiscal year.

(b) (i) The advisory council shall prepare forms for use by a municipality or county in applying for a distribution under this part.

(ii) A form described in this Subsection (5) may require the submission of information the advisory council considers necessary to enable the State Tax Commission to comply with this part.

Amended by Chapter 119, 2014 General Session

32B-2-405. Reporting by municipalities and counties -- Grants.

(1) A municipality or county that receives money under this part during a fiscal year shall by no later than October 1 following the fiscal year:

(a) report to the advisory council:

(i) the programs or projects of the municipality or county that receive money under this part;

(ii) if the money for programs or projects were exclusively used as required by Subsection 32B-2-403(2);

(iii) indicators of whether the programs or projects that receive money under this part are effective; and

(iv) if money received under this part was not expended by the municipality or county; and

(b) provide the advisory council a statement signed by the chief executive officer of the county or municipality attesting that the money received under this part was used in addition to money appropriated or otherwise available for the county's or municipality's law enforcement and was not used to supplant that money.

(2) The advisory council may, by a majority vote:

(a) suspend future payments under Subsection 32B-2-404(4) to a municipality or county that:

(i) does not file a report that meets the requirements of Subsection (1); or

(ii) the advisory council finds does not use the money as required by Subsection 32B-2-403(2) on the basis of the report filed by the municipality or county under Subsection (1); and

(b) cancel a suspension under Subsection (2)(a).

(3) The State Tax Commission shall notify the advisory council of the balance of any undistributed money after the annual distribution under Subsection 32B-2-404(5).

(4) (a) Subject to the requirements of this Subsection (4), the advisory council shall award the balance of undistributed money under Subsection (3):

(i) as prioritized by majority vote of the advisory council; and

(ii) as grants to:

(A) a county;

(B) a municipality;

(C) the department;

(D) the Department of Human Services;

(E) the Department of Public Safety; or

(F) the Utah State Office of Education.

(b) By not later than May 30 of the fiscal year of the appropriation, the advisory council shall notify the State Tax Commission of grants awarded under this Subsection (4).

(c) The State Tax Commission shall make payments of a grant:

(i) upon receiving notice as provided under Subsection (4)(b); and

(ii) by not later than June 30 of the fiscal year of the appropriation.

(d) An entity that receives a grant under this Subsection (4) shall use the grant money exclusively for programs or projects described in Subsection **32B-2-403**(2).

Amended by Chapter 276, 2010 General Session, (Coordination Clause)
Enacted by Chapter 276, 2010 General Session

59-15-109. Tax money to be paid to state treasurer.

(1) Taxes collected under this chapter shall be paid by the commission to the state treasurer daily for deposit as follows:

(a) the greater of the following shall be deposited into the Alcoholic Beverage Enforcement and Treatment Restricted Account created in Section **32B-2-403**:

(i) an amount calculated by:

(A) determining an amount equal to 40% of the revenue collected for the fiscal year two years preceding the fiscal year for which the deposit is made; and

(B) subtracting \$30,000 from the amount determined under Subsection (1)(a)(i)(A); or

(ii) \$4,350,000; and

(b) the revenue collected in excess of the amount deposited in accordance with Subsection (1)(a) shall be deposited into the General Fund.

(2) (a) The commission shall notify the entities described in Subsection (2)(b) not later than the September 1 preceding the fiscal year of the deposit of:

(i) the amount of the proceeds of the beer excise tax collected in accordance with this section for the fiscal year two years preceding the fiscal year of deposit; and

(ii) an amount equal to 40% of the amount listed in Subsection (2)(a)(i).

(b) The notification required by Subsection (2)(a) shall be sent to:

(i) the Governor's Office of Management and Budget; and

(ii) the Legislative Fiscal Analyst.

Amended by Chapter 310, 2013 General Session