

ALCOHOLIC BEVERAGE CODE
TITLE 4. REGULATORY AND PENAL PROVISIONS
CHAPTER 101. GENERAL CRIMINAL PROVISIONS

SUBCHAPTER A. PROCEDURAL PROVISIONS

Sec. 101.01. RESTRAINING ORDERS AND INJUNCTIONS. (a) If a credible person by affidavit informs the attorney general or a county or district attorney that a person is violating or is about to violate a provision of this code, or that a permit or license was wrongfully issued, the attorney general or county or district attorney shall begin proceedings in district court to restrain the person from violating the code or operating under the permit or license.

(b) The court may issue a restraining order without a hearing, and on notice and hearing may grant an injunction, to prevent the threatened or further violation or operation. The court may require the complaining party to file a bond in an amount and with the conditions the court finds necessary.

(c) If the court finds that a person has violated a restraining order or injunction issued under this section, it shall enter a judgment to that effect. The judgment operates to cancel without further proceedings any license or permit held by the person. The district clerk shall notify the commission when a judgment is entered that operates to cancel a license or permit.

(d) A license or permit may not be issued to a person whose license or permit is cancelled under Subsection (c) until the first anniversary of the date the license or permit is cancelled.

Acts 1977, 65th Leg., p. 491, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 269, eff. December 31, 2020.

Sec. 101.02. ARREST WITHOUT WARRANT. A peace officer may arrest without a warrant any person he observes violating any provision of this code or any rule or regulation of the commission. The officer shall take possession of all illicit beverages the

person has in his possession or on his premises as provided in Chapter 103 of this code.

Acts 1977, 65th Leg., p. 491, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 101.03. SEARCH AND SEIZURE. (a) A search warrant may issue under Chapter 18, Code of Criminal Procedure, 1965, as amended, to search for, seize, and destroy or otherwise dispose of in accordance with this code:

- (1) an illicit beverage;
- (2) any equipment or instrumentality used, or capable or designed to be used, to manufacture an illicit beverage;
- (3) a vehicle or instrumentality used or to be used for the illegal transportation of an illicit beverage;
- (4) unlawful equipment or materials used or to be used in the illegal manufacturing of an illicit beverage;
- (5) a forged or counterfeit stamp, die, plate, official signature, certificate, evidence of tax payment, license, permit, or other instrument pertaining to this code; or
- (6) any instrumentality or equipment, or parts of either of them, used or to be used, or designed or capable of use, to manufacture, print, etch, indite, or otherwise make a forged or counterfeit instrument covered by Subdivision (5) of this subsection.

(b) Any magistrate may issue a search warrant on the affidavit of a credible person, setting forth the name or description of the owner or person in charge of the premises (or stating that the name and description are unknown), the address or description of the premises, and showing that the described premises is a place where this code has been or is being violated. If the place to be searched is a private dwelling occupied as such and no part of it is used as a store, shop, hotel, boarding house, or for any other purpose except as a private residence, the affidavit must be made by two credible persons.

(c) All provisions of Chapter 18, Code of Criminal Procedure, 1965, as amended, apply to the application, issuance, and execution of the warrant except those that conflict with this section.

(d) The officer executing the warrant shall seize all items described in Subsection (a) of this section, and those items may not be taken from his custody by a writ of replevin or any other process. The officer shall retain the items pending final judgment in the proceedings.

(e) This section does not require a peace officer to obtain a search warrant to search premises covered by a license or permit. Acts 1977, 65th Leg., p. 491, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 101.04. CONSENT TO INSPECTION; PENALTY. (a) By accepting a license or permit, the holder consents to the commission, an authorized representative of the commission, or a peace officer entering the licensed premises at any time to conduct an investigation or inspect the premises for the purpose of performing any duty imposed by this code.

(b) A person commits an offense if the person refuses to allow the commission, an authorized representative of the commission, or a peace officer to enter a licensed or permitted premises as required by Subsection (a). An offense under this section is a Class A misdemeanor.

Acts 1977, 65th Leg., p. 492, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. 904), Sec. 19, eff. September 1, 2007.

Sec. 101.05. NEGATION OF EXCEPTION: INFORMATION, COMPLAINT, OR INDICTMENT. An information, complaint, or indictment charging a violation of this code need not negate an exception to an act prohibited by this code, but the exception may be urged by the defendant as a defense to the offense charged.

Acts 1977, 65th Leg., p. 492, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 101.06. TESTIMONY OF ACCOMPLICE. A conviction for a violation of this code cannot be had upon the testimony of an accomplice unless corroborated by other evidence tending to connect the defendant with the offense committed; and the corroboration is not sufficient if it merely shows the commission of the offense.

Acts 1977, 65th Leg., p. 492, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 108, ch. 67, Sec. 1, eff. Aug.
27, 1979.

Sec. 101.07. DUTY OF PEACE OFFICERS. All peace officers in the state, including those of cities, counties, and state, shall enforce the provisions of this code and cooperate with and assist the commission in detecting violations and apprehending offenders.
Acts 1977, 65th Leg., p. 492, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 101.08. DUTY OF COUNTY COURT. When a violation of this code occurs, the county court shall make a recommendation to the commission as to cancellation or suspension of any permit or license connected with the violation.
Acts 1977, 65th Leg., p. 492, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 101.09. REPORTS OF CONVICTIONS. Every county and district clerk in the state shall furnish the commission or its representative, on request, a certified copy of the judgment of conviction and of the information against a person convicted of a violation of this code. The clerk may not charge a fee for furnishing the copy.
Acts 1977, 65th Leg., p. 492, ch. 194, Sec. 1, eff. Sept. 1, 1977.

SUBCHAPTER B. OFFENSES RELATING TO DRY AREAS

Sec. 101.31. ALCOHOLIC BEVERAGES IN DRY AREAS. (a) Except as otherwise provided in this code, no person in a dry area may manufacture, distill, brew, sell, import into the state, export from the state, transport, distribute, warehouse, store, solicit or take orders for, or possess with intent to sell an alcoholic beverage.

(b) An offense under this section is a Class B misdemeanor.

(c) If it is shown on the trial of an offense under this section that the person has previously been convicted two or more times of an offense under this section, the offense is a state jail felony.

Acts 1977, 65th Leg., p. 493, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 2001, 77th Leg., ch. 462, Sec. 1, eff. Sept. 1, 2001.

Sec. 101.33. DELIVERY OF LIQUOR IN DRY AREA. Section [107.03](#) of this code relates to the delivery of liquor in a dry area.
Acts 1977, 65th Leg., p. 493, ch. 194, Sec. 1, eff. Sept. 1, 1977.

SUBCHAPTER C. CONTAINERS

Sec. 101.41. CONTAINERS, PACKAGING, AND DISPENSING EQUIPMENT OF MALT BEVERAGES: LABELS. (a) A brewer or distributor, directly or indirectly or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may not brew, sell, or otherwise introduce into commerce any container, packaging, or dispensing equipment of malt beverages that does not meet the requirements of this section.

(b) Every container of malt beverages must have a label or imprint in legible type showing the full name and address of the brewer and, if it contains a special brand brewed for a distributor, of the distributor. Any box, crate, carton, or similar device in which containers of malt beverages are sold or transported must have a label meeting the same requirements.

(c) The label of a container of malt beverages must state:

(1) the net contents in terms of United States liquor measure; and

(2) the alcohol content by volume.

(d) A container, packaging material, or dispensing equipment may not bear a label or imprint that:

(1) by wording, lettering, numbering, or illustration, or in any other manner refers or alludes to or suggests a brewing process, aging, analysis, or a scientific fact;

(2) refers or alludes to the "proof," "balling," or "extract" of the product;

(3) is untrue in any respect; or

(4) by ambiguity, omission, or inference tends to create a misleading impression, or causes or is calculated to cause

deception of the consumer with respect to the product.

Acts 1977, 65th Leg., p. 493, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 61, eff. Sept. 1, 1993.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 271, eff. September 1, 2021.

Sec. 101.42. RETURNABLE CONTAINER: ACCEPTANCE BY ANOTHER BREWER. A brewer of malt beverages may not purchase, accept as a return, or use a barrel, half-barrel, keg, case, or bottle permanently branded or imprinted with the name of another brewer.

Acts 1977, 65th Leg., p. 494, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 272, eff. September 1, 2021.

Sec. 101.43. MISBRANDING OF BREWERY PRODUCT. (a) A brewer or distributor, directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may not sell or otherwise introduce into commerce a brewery product that is misbranded.

(b) A product is misbranded if:

(1) it is misbranded within the meaning of the federal Food and Drug Act;

(2) the container is so made or filled as to mislead the purchaser, or if its contents fall below the recognized standards of fill;

(3) it misrepresents the standard of quality of products in the branded container; or

(4) it is so labeled as to purport to be a product different from that in the container.

Acts 1977, 65th Leg., p. 494, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 273, eff. September 1, 2021.

Sec. 101.45. CONTAINERS OF WINE: MAXIMUM CAPACITY. A person may not sell wine to a retail dealer in a container with a capacity greater than 15.5 gallons.

Acts 1977, 65th Leg., p. 494, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 5 (S.B. [351](#)), Sec. 1, eff. April 21, 2011.

Acts 2015, 84th Leg., R.S., Ch. 168 (H.B. [2022](#)), Sec. 1, eff. May 28, 2015.

Sec. 101.46. CONTAINERS OF LIQUOR: MINIMUM CAPACITIES.

(a) Except as provided by Subsections (b), (c), and (d), no person may import, sell, or possess with intent to sell any liquor in a container with a capacity of less than 20 milliliters. A container of liquor offered for sale that has a capacity of less than six fluid ounces must substantially conform to the labeling requirements of the Bureau of Alcohol, Tobacco, and Firearms for larger containers in which liquor is sold. Holders of distiller's or rectifier's permits wishing to sell liquor bottled in containers of less than six fluid ounces to wholesalers must sell such containers of liquor to wholesalers in units of unbroken, sealed cases. Wholesalers shall sell liquor bottled in containers of less than six fluid ounces to package stores in units of unbroken, sealed cases.

(b) Subsection (a) does not apply to permittees or licensees while engaged in supplying mixed beverage permittees or passenger transportation permittees under Section [48.03](#) or [48.05](#), nor to the possession or sale of liquor by a mixed beverage permittee or a passenger transportation permittee under Section [48.03](#) or [48.05](#), but none of the permittees or licensees covered by this subsection may possess liquor in a container with a capacity of less than one fluid ounce.

(c) Subsection (a) of this section does not apply to liquor imported under Section [107.07](#) of this code.

(d) Spirit coolers, as described by the definition of "distilled spirits" in Section [1.04](#) of this code, may be sold in containers with a capacity of less than 355 milliliters as well as

in containers with any other capacity authorized by this code for distilled spirits.

Acts 1977, 65th Leg., p. 494, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 1146, ch. 552, Sec. 1, eff. Aug. 27, 1979; Acts 1993, 73rd Leg., ch. 934, Sec. 62, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 269, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1095, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1017 (H.B. [1039](#)), Sec. 1, eff. June 19, 2015.

Acts 2017, 85th Leg., R.S., Ch. 283 (H.B. [3101](#)), Sec. 3, eff. May 29, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 274, eff. September 1, 2021.

Sec. 101.47. CARRIER MAY TRANSPORT LIQUOR IN SMALL CONTAINERS. The commission may authorize a common carrier of persons engaged in interstate commerce to transport liquor in containers of less than 20 milliliters if the liquor is not for sale, use, or consumption in the state.

Acts 1977, 65th Leg., p. 494, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 1969, ch. 777, Sec. 10, eff. Aug. 27, 1979; Acts 2003, 78th Leg., ch. 1095, Sec. 2, eff. Sept. 1, 2003.

Sec. 101.48. COMMISSION'S REGULATORY AUTHORITY. Sections [5.39](#) and [5.40](#) relate to the commission's authority to regulate liquor containers and malt beverage container deposits.

Acts 1977, 65th Leg., p. 495, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 275, eff. September 1, 2021.

SUBCHAPTER D. MISCELLANEOUS OFFENSES

Sec. 101.61. VIOLATION OF CODE OR RULE. A person who fails or refuses to comply with a requirement of this code or a valid rule

of the commission violates this code.

Acts 1977, 65th Leg., p. 495, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 101.63. SALE OR DELIVERY TO CERTAIN PERSONS. (a) A person commits an offense if the person with criminal negligence sells an alcoholic beverage to an habitual drunkard or an intoxicated or insane person.

(a-1) A person commits an offense if the person with criminal negligence delivers for commercial purposes an alcoholic beverage to an intoxicated person.

(b) Except as provided in Subsection (c) of this section, a violation of this section is a misdemeanor punishable by a fine of not less than \$100 nor more than \$500, by confinement in jail for not more than one year, or by both.

(c) If a person has been previously convicted of a violation of this section or of Section 106.03 of this code, a violation is a misdemeanor punishable by a fine of not less than \$500 nor more than \$1,000, by confinement in jail for not more than one year, or by both.

Acts 1977, 65th Leg., p. 495, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 2003, 78th Leg., ch. 508, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 441 (S.B. 1450), Sec. 4, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 441 (S.B. 1450), Sec. 5, eff. September 1, 2019.

Sec. 101.64. INDECENT GRAPHIC MATERIAL. No holder of a license or permit may possess or display on the licensed premises a card, calendar, placard, picture, or handbill that is immoral, indecent, lewd, or profane.

Acts 1977, 65th Leg., p. 495, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 101.65. BEVERAGES MADE FROM CERTAIN MATERIALS PROHIBITED. No person may manufacture, import, sell, or possess for the purpose of sale an alcoholic beverage made from:

- (1) any compound made from synthetic materials;
- (2) substandard wines;
- (3) imitation wines; or
- (4) must concentrated at any time to more than 80

degrees Balling.

Acts 1977, 65th Leg., p. 495, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1999, 76th Leg., ch. 1297, Sec. 1, eff. Sept. 1, 1999.

Sec. 101.66. BEVERAGES OF CERTAIN ALCOHOL CONTENT PROHIBITED. A person may not manufacture, sell, barter, or exchange a beverage that contains more than one-half of one percent alcohol by volume and not more than five percent alcohol by volume, except malt beverages, wine coolers, and spirit coolers.

Acts 1977, 65th Leg., p. 495, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 60, eff. Sept. 1, 1993.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 276, eff. September 1, 2021.

Sec. 101.67. PRIOR APPROVAL OF MALT BEVERAGES. (a) Before an authorized licensee may ship or cause to be shipped into the state, import into the state, manufacture and offer for sale in the state, or distribute, sell, or store in the state any malt beverages, the licensee must register the malt beverages with the commission. The registration application must include a certificate of label approval issued by the United States Alcohol and Tobacco Tax and Trade Bureau for the product.

(b) Only a brewer's or nonresident brewer's licensee, or a brewpub licensee may apply to register malt beverages with the commission.

(c) This section does not apply to the importation of malt beverages for personal consumption and not for sale.

(d) On registration of a certificate of label approval issued by the United States Alcohol and Tobacco Tax and Trade Bureau, the commission shall approve the product under this section

and issue a letter to that effect to the licensee unless the commission determines the product, despite having a valid federal certificate of label approval, would create a public safety concern, create a cross-tier violation, or otherwise violate this code.

(d-1) If the commission approves the product, the commission shall issue a certificate of approval upon receipt of a fee in an amount that is sufficient to cover the cost of administering this section. A copy of the certificate shall be kept on file in the office of the commission.

(e) Not later than the 30th day after the date the commission receives an application for registration of a product under this section, the commission shall either approve or deny the registration application. If the commission denies the application for a product with a valid federal certificate of label approval or fails to act on the application within the time required by this subsection, the licensee submitting the application is entitled to an administrative hearing before the State Office of Administrative Hearings.

(f) The commission by rule shall establish procedures for:

(1) accepting federal certificates of label approval for registration under this section;

(2) registering alcoholic beverage products that are not eligible to receive a certificate of label approval issued by the United States Alcohol and Tobacco Tax and Trade Bureau; and

(3) registering alcoholic beverage products during periods when the United States Alcohol and Tobacco Tax and Trade Bureau has ceased processing applications for a certificate of label approval.

(g) The commission shall consider the nutrition label requirements of the United States Food and Drug Administration and the alcohol label requirements of the United States Alcohol and Tobacco Tax and Trade Bureau in developing the label requirements to register products described by Subsection (f)(2).

(h) The rules adopted under this section may not require testing for alcohol content as part of the process for registering an alcoholic beverage with the commission.

Acts 1977, 65th Leg., p. 496, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1987, 70th Leg., ch. 495, Sec. 4, eff. Aug. 31, 1987.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. [904](#)), Sec. 20, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 614 (S.B. [858](#)), Sec. 1, eff. June 16, 2015.

Acts 2017, 85th Leg., R.S., Ch. 847 (H.B. [2299](#)), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 277(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 277(b), eff. September 1, 2021.

Sec. 101.6701. LABEL APPROVAL NOT REQUIRED FOR CERTAIN MALT BEVERAGES. (a) This section applies only to the holder of a brewer's license authorized under Section [62.122](#) to sell malt beverages produced on the brewer's premises under the license to ultimate consumers on the brewer's premises for responsible consumption on the brewer's premises and for off-premises consumption.

(b) Notwithstanding Sections [101.41](#) and [101.67](#) or any other law, a license holder to whom this section applies may sell malt beverages to ultimate consumers for consumption on the license holder's premises or for off-premises consumption without receiving label approval for the malt beverages.

(c) A license holder who sells malt beverages under Subsection (b) shall:

(1) post in a conspicuous place on the license holder's premises the alcohol content of the malt beverages in percentage of alcohol by volume; and

(2) provide in writing to an ultimate consumer who purchases a malt beverage for off-premises consumption:

(A) the product name of the malt beverage; and

(B) the alcohol content of the malt beverage in percentage of alcohol by volume.

(d) A license holder satisfies the requirements of Subsection (c)(2) if the license holder:

(1) writes the product name and alcohol content on the container of the malt beverage; or

(2) applies a label with the product name and alcohol content to the container of the malt beverage.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 278(b), eff. September 1, 2021.

Sec. 101.671. PRIOR APPROVAL OF DISTILLED SPIRITS AND WINE.

(a) Before an authorized permittee may ship distilled spirits or wine into the state or sell distilled spirits or wine within the state, the permittee must register the distilled spirits or wine with the commission and provide proof that the permittee is the primary American source of supply for purposes of Section [37.10](#). Except for rare or vintage wine that is acquired at auction and for which no certificate is available, the registration application must include a certificate of label approval issued by the United States Alcohol and Tobacco Tax and Trade Bureau for the product. Rare or vintage wine purchased at auction and registered by the commission under this subsection must comply with all other provisions of this code, including provisions regarding the sale, purchase, importation, and distribution of that wine.

(b) On registration of a certificate of label approval issued by the United States Alcohol and Tobacco Tax and Trade Bureau, the commission shall approve the product under this section and issue a letter to that effect to the permittee unless the commission determines the product, despite having a valid federal certificate of label approval, would create a public safety concern, create a cross-tier violation, or otherwise violate this code. The commission may not require additional approval for the product unless there is a change to the label or product that requires reissuance of the federal certificate of label approval. The commission shall accept the certificate of label approval as constituting full compliance only with any applicable standards adopted under Section [5.38](#) regarding quality, purity, and identity of distilled spirits or wine.

(c) The commission may not register a product unless the application is accompanied by a fee set by the commission in an amount that is sufficient to cover the cost of administering this section. A copy of the registration shall be kept on file in the office of the commission.

(c-1) Not later than the 30th day after the date the commission receives an application for registration of a product under this section, the commission shall either approve or deny the registration application. If the commission denies the application for a product with a valid federal certificate of label approval or fails to act on the application within the time required by this subsection, the permittee submitting the application is entitled to an administrative hearing before the State Office of Administrative Hearings.

(d) The commission by rule shall establish procedures for:

(1) accepting:

(A) federal certificates of label approval for registration under this section; and

(B) proof, such as a letter of authorization, that a permittee is the primary American source of supply of the product or brand for purposes of Section 37.10; and

(2) registering alcoholic beverage products that are not eligible to receive a certificate of label approval issued by the United States Alcohol and Tobacco Tax and Trade Bureau.

(e) The commission shall consider the nutrition label requirements of the United States Food and Drug Administration and the alcohol label requirements of the United States Alcohol and Tobacco Tax and Trade Bureau in developing the label requirements to register products described by Subsection (d)(2).

(f) The rules adopted under this section may not require testing for alcohol content as part of the process for registering an alcoholic beverage with the commission.

Added by Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. 904), Sec. 21, eff. September 1, 2007.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1181 (S.B. 950), Sec. 2, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 440 (H.B. [1348](#)), Sec. 1, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 279, eff. December 31, 2020.

Sec. 101.673. USE OF AMERICAN VITICULTURAL AREA, COUNTY, OR VINEYARD ON WINE LABEL. (a) In this section, "American viticultural area" has the meaning assigned by 27 C.F.R. Section 4.25.

(b) A wine that is otherwise entitled under federal law to an appellation of origin indicating the wine's origin is an American viticultural area or county located in this state may use that appellation only if the wine is 100 percent by volume fermented juice of grapes or other fruit grown in this state.

(c) A wine that is otherwise entitled under federal law to use the name of a specific vineyard in this state on the wine's label may use the name of the vineyard on the label only if the wine is 100 percent by volume fermented juice of grapes or other fruit grown in this state.

Added by Acts 2021, 87th Leg., R.S., Ch. 151 (H.B. [1957](#)), Sec. 1, eff. September 1, 2021.

Sec. 101.68. CONSIGNMENT SALE PROHIBITED. A person commits an offense if he is a party to, or directly or indirectly interested in or connected with, a consignment sale of an alcoholic beverage. Acts 1977, 65th Leg., p. 496, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 101.69. FALSE STATEMENT. Except as provided in Section [103.05\(d\)](#), a person who knowingly makes a false statement or false representation in an application for a permit or license or in a statement, report, or other instrument to be filed with the commission and required to be sworn commits an offense punishable by imprisonment in the Texas Department of Criminal Justice for not less than 2 nor more than 10 years.

Acts 1977, 65th Leg., p. 496, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. 25.007,

eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 850 (H.B. [2792](#)), Sec. 1, eff. September 1, 2019.

Sec. 101.70. COMMON NUISANCE. (a) A room, building, boat, structure, or other place where alcoholic beverages are sold, bartered, manufactured, stored, possessed, or consumed in violation of this code or under circumstances contrary to the purposes of this code, the beverages themselves, and all property kept or used in the place, are a common nuisance. A person who maintains or assists in maintaining the nuisance commits an offense.

(b) The county or district attorney in the county where the nuisance exists or the attorney general may sue in the name of the state for an injunction to abate and temporarily and permanently enjoin it. Except as otherwise provided in this section, the proceeding is conducted as other similar proceedings.

(b-1) The city attorney in the city where the nuisance exists may sue in the name of the city for an injunction to abate and temporarily and permanently enjoin it. Except as otherwise provided in this section, the proceeding is conducted as other similar proceedings.

(c) The plaintiff is not required to give a bond. The final judgment is a judgment in rem against the property and a judgment against the defendant. If the court finds against the defendant, on final judgment it shall order that the place where the nuisance exists be closed for one year or less and until the owner, lessee, tenant, or occupant gives bond with sufficient surety as approved by the court in the penal sum of at least \$1,000. The bond must be payable to the state and conditioned:

- (1) that this code will not be violated;
- (2) that no person will be permitted to resort to the place to drink alcoholic beverages in violation of this code; and
- (3) that the defendant will pay all fines, costs, and damages assessed against him for any violation of this code.

(d) On appeal, the judgment may not be superseded except on filing an appeal bond in the penal sum of not more than \$500, in

addition to the bond for costs of the appeal. That bond must be approved by the trial court and must be posted before the judgment of the court may be superseded on appeal. The bond must be conditioned that if the judgment of the trial court is finally affirmed it may be forfeited in the same manner and for any cause for which a bond required on final judgment may be forfeited for an act committed during the pendency of an appeal.

Acts 1977, 65th Leg., p. 496, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 234 (H.B. 256), Sec. 1, eff. September 1, 2017.

Sec. 101.71. INSPECTION OF VEHICLE. No holder of a permit issued under Title 3, Subtitle A, of this code, may refuse to allow the commission or its authorized representative or a peace officer, on request, to make a full inspection, investigation, or search of any vehicle.

Acts 1977, 65th Leg., p. 497, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 101.72. CONSUMPTION OF ALCOHOLIC BEVERAGE ON PREMISES LICENSED FOR OFF-PREMISES CONSUMPTION. (a) A person commits an offense if the person knowingly consumes liquor or malt beverages on the premises of a holder of a wine and malt beverage retailer's off-premise permit or a retail dealer's off-premise license.

(b) A person is presumed to have knowingly violated Subsection (a) of this section if the warning sign required by either Section 26.05 or 71.10 of this code is displayed on the premises.

(c) Except as provided in Subsection (d) of this section, a violation of this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$200.

(d) If a person has been convicted of a violation of this section occurring within a year of a subsequent violation, the subsequent violation is a misdemeanor punishable by a fine of not less than \$100 nor more than \$200.

Added by Acts 1983, 68th Leg., p. 2212, ch. 414, Sec. 5, eff. Sept. 1, 1983.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 280, eff. September 1, 2021.

Sec. 101.73. EXPUNGEMENT OF CONVICTION FOR CONSUMPTION ON PREMISES LICENSED FOR OFF-PREMISES CONSUMPTION. (a) A person convicted of not more than one violation of Section 101.72 of this code within 12 months, after the first anniversary of the conviction, may apply to the court in which he was convicted to have the conviction expunged.

(b) The application shall contain the applicant's sworn statement that he was not convicted of an additional violation of Section 101.72 of this code during the previous 12 months.

(c) If the court finds that the applicant was not convicted of another violation of Section 101.72 of this code during the preceding 12 months, the court shall order the conviction, together with all complaints, verdicts, fines, and other documents relating to the offense, to be expunged from the applicant's record. After entry of the order, the applicant is released from all disabilities resulting from the conviction, and the conviction may not be shown or made known for any purpose.

Added by Acts 1983, 68th Leg., p. 2212, ch. 414, Sec. 5, eff. Sept. 1, 1983.

Sec. 101.74. OFFENSES RELATING TO BINGO. (a) An organization licensed to conduct bingo under Chapter 2001, Occupations Code, may not offer an alcoholic beverage as a bingo prize or as a door prize at a bingo occasion.

(b) A person who holds a permit or license at the manufacturing or wholesale levels of the alcoholic beverage industry or a person who holds a package store permit may not participate in advertising any bingo game or pay or contribute toward payment of the printing of bingo cards or of the supplying of any novelties of any sort to be used during or in connection with the conduct of a bingo game.

Added by Acts 1989, 71st Leg., ch. 238, Sec. 41, eff. Jan. 1, 1990.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.727, eff. Sept.

1, 2001.

Sec. 101.75. CONSUMPTION OF ALCOHOLIC BEVERAGES NEAR SCHOOLS. (a) A person commits an offense if the person possesses an open container or consumes an alcoholic beverage on a public street, public alley, or public sidewalk within 1,000 feet of the property line of a facility that is a public or private school, including a parochial school, that provides all or any part of prekindergarten through twelfth grade.

(b) This section does not apply to the possession of an open container or the consumption at an event duly authorized by appropriate authorities and held in compliance with all other applicable provisions of this code.

(c) An offense under this section is a Class C misdemeanor.

(d) In this section, "open container" has the meaning assigned in Section [109.35](#).

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 63, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 260, Sec. 6, eff. May 30, 1995;

Acts 2001, 77th Leg., ch. 388, Sec. 1, eff. May 28, 2001.

Sec. 101.76. UNLAWFUL DISPLAY OR USE OF PERMIT OR LICENSE.

(a) A person commits an offense if the person knowingly allows another person to display or use a permit or license issued by the commission in any manner not allowed by law.

(b) A person commits an offense if the person displays or uses a permit or license issued by the commission to another person in any manner not allowed by law.

(c) Except as provided by Subsection (d), an offense under this section is a Class B misdemeanor.

(d) If it is shown on the trial of an offense under this section that the person has previously been convicted of an offense under this section, the offense is a Class A misdemeanor.

Added by Acts 2015, 84th Leg., R.S., Ch. 424 (S.B. [367](#)), Sec. 7, eff. September 1, 2015.