

ALCOHOLIC BEVERAGE CODE

TITLE 4. REGULATORY AND PENAL PROVISIONS

CHAPTER 104. REGULATION OF RETAILERS

Sec. 104.01. LEWD, IMMORAL, INDECENT CONDUCT. (a) A person authorized to sell malt beverages at retail, or the person's agent, servant, or employee, may not engage in or permit conduct on the premises of the retailer which is lewd, immoral, or offensive to public decency, including any of the following acts:

(1) the use of loud and vociferous or obscene, vulgar, or indecent language, or permitting its use;

(2) the exposure of a person or permitting a person to expose himself or herself;

(3) rudely displaying or permitting a person to rudely display a pistol or other deadly weapon in a manner calculated to disturb persons in the retail establishment;

(4) solicitation of any person to buy drinks for consumption by the retailer or any of the retailer's employees;

(5) being intoxicated on the licensed premises;

(6) permitting lewd or vulgar entertainment or acts;

(7) permitting solicitations of persons for immoral or sexual purposes;

(8) failing or refusing to comply with state or municipal health or sanitary laws or ordinances; or

(9) possession of a narcotic or synthetic cannabinoid or any equipment used or designed for the administering of a narcotic or a synthetic cannabinoid or permitting a person on the licensed premises to do so.

(b) For purposes of Subsection (a)(4), a solicitation is presumed if an alcoholic beverage is sold or offered for sale for an amount in excess of the retailer's listed, advertised, or customary price. The presumption may be rebutted only by evidence presented under oath.

(c) In this section, "synthetic cannabinoid" means a substance included in Penalty Group 2-A under Section [481.1031](#), Health and Safety Code.

Acts 1977, 65th Leg., p. 510, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1979, 66th Leg., p. 204, ch. 114, Sec. 1, eff. Aug. 27, 1979; Acts 1987, 70th Leg., ch. 303, Sec. 7, eff. June 11, 1987; Acts 1989, 71st Leg., ch. 1200, Sec. 2, eff. June 16, 1989.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 825 (H.B. [3982](#)), Sec. 2, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 539 (S.B. [341](#)), Sec. 2, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 321, eff. September 1, 2021.

Sec. 104.03. CONSPIRACY; ACCEPTING UNLAWFUL BENEFIT. A retail dealer or his agent, servant, or employee commits an offense if he conspires with another person to violate or accepts the benefits of a violation of this code or a valid rule of the commission.

Acts 1977, 65th Leg., p. 511, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 104.04. DRAFT MALT BEVERAGE DISPENSER: SIGN REQUIRED. A retail dealer may not dispense draft malt beverages unless each faucet or other dispensing apparatus is equipped with a sign clearly indicating the name or brand of the product being dispensed through the faucet or apparatus. The sign must be in full sight of the purchaser, and the letters on it must be legible.

Acts 1977, 65th Leg., p. 511, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. [1090](#)), Sec. 17, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 322, eff. September 1, 2021.

Sec. 104.05. SALE IN ORIGINAL PACKAGING. (a) This section applies to a permittee or licensee who is authorized to sell malt beverages to an ultimate consumer for consumption off the permitted or licensed premises.

(b) The holder of a permit or license described in Subsection (a) may resell malt beverages only in the packaging in

which the holder received the malt beverages or may resell the contents of the packages as individual containers.

(c) Except for purposes of resale as individual containers, a licensee or permittee may not:

(1) mutilate, tear apart, or cut apart original packaging in which malt beverages were received; or

(2) repackage malt beverages in a manner misleading to the consumer or that results in required labeling being omitted or obscured.

(d) Nothing in this code prevents a retailer from making a claim for the replacement of alcoholic beverages delivered to the retailer by a wholesaler or distributor in a damaged condition. A wholesaler or distributor may not give a refund for or replace alcoholic beverages that were damaged while in the possession of the retailer.

(e) To assure and control product quality, the holder of a distributor's license, at the time of a regular delivery, may withdraw, with the permission of the retailer, a quantity of malt beverages in its undamaged original packaging from the retailer's stock, if:

(1) the distributor replaces the stock with malt beverages of identical brands, quantities, and packages as the malt beverages withdrawn;

(2) the stock is withdrawn before the date considered by the brewer of the product to be the date the product becomes inappropriate for sale to a consumer; and

(3) the quantity of stock withdrawn does not exceed the equivalent of 25 cases of 24 12-ounce containers.

(f) A consignment sale of an alcoholic beverage is not authorized under Subsection (e) of this section.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 68, eff. Sept. 1, 1993.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 417 (S.B. [1215](#)), Sec. 1, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 323, eff. September 1, 2021.

Sec. 104.06. MONITORING OF GROSS RECEIPTS. (a) On the issuance and renewal of a license or permit that allows on-premises consumption of any alcoholic beverage the commission shall determine whether the holder receives, or for the issuance of a license or permit is to receive, 51 percent or more of the gross receipts of the premises for which the license or permit is issued from the holder's sale or service of alcoholic beverages for on-premises consumption.

(b) The commission shall:

(1) adopt rules for making a determination under Subsection (a); and

(2) require a holder of a license or permit to provide any information or document that the commission needs to make a determination.

(c) If the commission makes a determination under Subsection (a) that a holder of a license or permit receives 51 percent or more of the gross receipts of the premises from the sale or service of alcoholic beverages, the holder shall comply with the requirements of Section [411.204](#), Government Code, and shall continue to comply with those requirements until the commission determines that the holder receives less than 51 percent of the gross receipts of the premises from the sale or service of alcoholic beverages for on-premises consumption.

Added by Acts 1997, 75th Leg., ch. 1261, Sec. 20, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.22, eff. Sept. 1, 1999.

Sec. 104.07. POSTING OF CERTAIN NOTICES REQUIRED. (a) The holder of a permit or license under Chapter [25](#), [26](#), [28](#), [32](#), [69](#), or [71](#), other than the holder of a food and beverage certificate, shall display a sign containing the following notice in English and in Spanish:

WARNING: Obtaining forced labor or services is a crime under Texas law. Call the national human trafficking hotline: 1-888-373-7888. You may remain anonymous.

(a-1) In addition to the notice required under Subsection (a), the sign must include the contact information for reporting

suspicious activity to the Department of Public Safety.

(b) The sign must be at least 8-1/2 inches high and 11 inches wide and displayed in a conspicuous manner clearly visible to the public and employees of the permit or license holder. The English notice must cover approximately two-thirds of the sign, and the Spanish notice must cover approximately one-third of the sign.

Added by Acts 2007, 80th Leg., R.S., Ch. 155 (S.B. [1287](#)), Sec. 1, eff. September 1, 2007.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 280 (H.B. [3721](#)), Sec. 1, eff. September 1, 2021.