

ALCOHOLIC BEVERAGE CODE

TITLE 5. TAXATION

Text of chapter effective on September 1, 2021

CHAPTER 203. MALT BEVERAGE TAX

Sec. 203.01. TAX ON MALT BEVERAGES. A tax is imposed on the first sale of malt beverages brewed in this state or imported into this state at the rate of six dollars per barrel.

Acts 1977, 65th Leg., p. 539, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 2, Sec. 14, eff. Oct. 2, 1984.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 369, eff. September 1, 2021.

Sec. 203.02. "FIRST SALE". In this chapter, "first sale" means:

(1) the first actual sale of malt beverages:

(A) by the holder of a distributor's license or by the holder of a brewer's license acting under the authority of Section 62A.02, to:

(i) a permittee or licensee authorized to sell to ultimate consumers;

(ii) a local distributor permittee; or

(iii) a private club registration permittee; or

(B) by a brewpub licensee to a consumer or a permittee or licensee authorized to sell malt beverages to ultimate consumers; or

(2) the importation of malt beverages under Section 107.07.

Acts 1977, 65th Leg., p. 539, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 2, Sec. 15, eff. Oct. 2, 1984.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. 1090), Sec. 25, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 370, eff. September 1, 2021.

Sec. 203.03. DUTY TO PAY TAX; DUE DATE. (a) The licensee making the taxable first sale shall pay the tax on malt beverages imposed under Section 203.01.

(b) The tax is due and payable on the 15th day of the month following the month in which the taxable first sale occurs, together with a report on the tax due.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 1(5), eff. June 14, 2013.

(d) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 1(5), eff. June 14, 2013.

(e) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 1(5), eff. June 14, 2013.

Acts 1977, 65th Leg., p. 539, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 2, Sec. 16, eff. Oct. 2, 1984.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 10.05, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 431 (S.B. 559), Sec. 1(5), eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 371, eff. September 1, 2021.

Sec. 203.04. TAX ON UNSALABLE MALT BEVERAGES. No tax imposed under Section 203.01 may be imposed or collected on malt beverages that for any reason have been found and declared to be unsalable by the commission or administrator. A brewer or distributor is entitled to a refund of any tax the brewer or distributor has paid on unsalable malt beverages.

Acts 1977, 65th Leg., p. 539, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 372, eff. September 1, 2021.

Sec. 203.05. EXEMPTION FROM TAX. (a) No tax may be collected on malt beverages:

(1) shipped out of this state for consumption outside of this state;

(2) sold aboard ships for ship's supplies; or

(3) shipped to any installation of the national military establishment under federal jurisdiction for consumption by military personnel on that installation.

(b) The commission shall provide forms on which distributors and brewers may claim these exemptions from the tax on malt beverages.

(c) Repealed by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 2, Sec. 18, eff. Oct. 2, 1984.

Acts 1977, 65th Leg., p. 539, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 2, Sec. 18, eff. Oct. 2, 1984.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 373, eff. September 1, 2021.

Sec. 203.06. EXCESS TAX. A brewer or distributor is entitled to a refund or credit on future tax payment for any excess tax on malt beverages paid through oversight, mistake, error, or miscalculation.

Acts 1977, 65th Leg., p. 540, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 374, eff. September 1, 2021.

Sec. 203.07. CLAIMS FOR REFUNDS. (a) The commission or administrator shall prescribe by rule for the claiming of tax refunds and credits authorized under this chapter, including provisions as to the time and manner for claiming the refunds and credits.

(b) Necessary funds from the collection of the malt beverages tax before it is allocated may be appropriated for the payment of malt beverages tax refunds.

Acts 1977, 65th Leg., p. 540, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 375, eff. September 1, 2021.

Sec. 203.09. STATEMENTS. (a) The commission may require brewers of malt beverages brewed in this state or imported into this state, importers, and distributors to provide information as to purchases, sales, and shipments to enable the commission to collect the full amount of the malt beverages tax due. No brewer, importer, or distributor may fail or refuse to furnish the information.

(b) The commission may seize or withhold from sale the manufacturer's, importer's, or distributor's malt beverages for failure or refusal to supply the information required under Subsection (a) or to permit the commission to make an investigation of pertinent records whether inside or outside this state.

Acts 1977, 65th Leg., p. 540, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 376, eff. September 1, 2021.

Sec. 203.10. PAYMENT OF TAXES; DISCOUNT. The tax on malt beverages shall be paid by a remittance payable to the comptroller and forwarded with any required sworn statements of taxes due to the commission in Austin on or before the due date. A discount of two percent of the amount due shall be withheld by the permittee or licensee for keeping records, furnishing bonds, and properly accounting for the remittance of the tax due. No discount is permitted if the tax is delinquent at the time of payment.

Acts 1977, 65th Leg., p. 540, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 1.06, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 377, eff. September 1, 2021.

Sec. 203.11. EVIDENCE IN SUIT. In a suit brought to enforce the collection of tax due on malt beverages brewed in or imported into this state, a certificate by the commission or administrator showing the delinquency is prima facie evidence of:

(1) the levy of the tax or the delinquency of the stated amount of tax and penalty; and

(2) compliance by the commission with the provisions of this code in relation to the computation and levy of the tax.

Acts 1977, 65th Leg., p. 540, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 378, eff. September 1, 2021.

Sec. 203.12. TAX LIABILITY. A person possessing malt beverages on which the tax is delinquent is liable for the delinquent taxes in addition to the criminal penalties.

Acts 1977, 65th Leg., p. 540, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 379, eff. September 1, 2021.

Sec. 203.13. SUMMARY SUSPENSION. (a) The commission may summarily suspend, without a hearing, the license of a licensee who fails to file a report or return or to make a tax payment required by this subchapter. Chapter 2001, Government Code does not apply to the commission in the enforcement and administration of this section.

(b) A suspension under this section takes effect on the third day after the date the notice of suspension is given. The notice shall be given to the licensee or the licensee's agent or employee by registered or certified mail if not given in person.

(c) The commission shall terminate a suspension made under this section when the licensee files all required returns and makes all required tax payments that are due.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 98, eff. Jan. 1, 1994.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995.