

ALCOHOLIC BEVERAGE CODE

TITLE 3. LICENSES AND PERMITS

SUBTITLE A. PERMITS

CHAPTER 25. WINE AND MALT BEVERAGE RETAILER'S PERMIT

Sec. 25.01. AUTHORIZED ACTIVITIES. The holder of a wine and malt beverage retailer's permit may sell:

(1) for consumption on or off the premises where sold, but not for resale, wine and malt beverages containing alcohol in excess of one-half of one percent by volume and not more than 17 percent by volume; and

(2) for consumption on the premises, the following beverages containing alcohol in excess of one-half of one percent by volume and not more than 24 percent by volume:

- (A) traditional port or sherry;
- (B) dessert-flavored wine; or
- (C) rice wine.

Acts 1977, 65th Leg., p. 425, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 29, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 418, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 100, eff. September 1, 2021.

Sec. 25.04. ISSUANCE, CANCELLATION, AND SUSPENSION OF PERMIT. (a) A wine and malt beverage retailer's permit is issued by the commission. The qualification of applicants and the application for and issuance of the permit are governed by the same provisions which apply to the application for and issuance of a retail dealer's on-premise license.

(b) The provisions of this code applicable to the cancellation and suspension of a retail dealer's on-premise license also apply to the cancellation and suspension of a wine and malt beverage retailer's permit.

Acts 1977, 65th Leg., p. 426, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

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

103(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 103(b), eff. September 1, 2021.

Sec. 25.05. HEARINGS ON PERMIT APPLICATION: NOTICE AND ATTENDANCE. (a) On receipt of an original application for a wine and malt beverage retailer's permit, the commission shall give notice of all hearings before the commission concerning the application to the sheriff and the chief of police of the incorporated city in which, or nearest which, the premises for which the permit is sought are located.

(b) The individual natural person applying for the permit or, if the applicant is not an individual natural person, the individual partner, officer, trustee, or receiver who will be primarily responsible for the management of the premises shall attend any hearing involving the application.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 104(b), eff. September 1, 2021.

Sec. 25.06. DENIAL OF ORIGINAL APPLICATION. (a) The commission shall deny an original application for a wine and malt beverage retailer's permit if the commission finds that the applicant, or the applicant's spouse, during the five years immediately preceding the application, was finally convicted of a felony or one of the following offenses:

- (1) prostitution or solicitation of prostitution;
- (2) a vagrancy offense involving moral turpitude;
- (3) bookmaking;
- (4) gambling or gaming;
- (5) an offense involving controlled substances as defined in Chapter 481, Health and Safety Code, or other dangerous drugs;
- (6) a violation of this code resulting in the cancellation of a license or permit, or a fine of not less than \$500;
- (7) more than three violations of this code relating

to minors;

(8) bootlegging; or

(9) an offense involving firearms or a deadly weapon.

(b) The commission shall also deny an original application for a permit if the commission finds that five years have not elapsed since the termination of a sentence, parole, or probation served by the applicant or the applicant's spouse because of a felony conviction or conviction of any of the offenses described in Subsection (a).

(c) The commission shall deny an application for a renewal of a wine and malt beverage retailer's permit if the commission finds:

(1) that the applicant, or the applicant's spouse, has been convicted of a felony or one of the offenses listed in Subsection (a) at any time during the five years immediately preceding the filing of the application for renewal; or

(2) that five years have not elapsed since the termination of a sentence, parole, or probation served by the applicant, or the applicant's spouse, of a felony conviction or conviction of any of the offenses described in Subsection (a).

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 105(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 105(b), eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 31, eff. September 1, 2021.

Sec. 25.09. POSSESSION OF CERTAIN BEVERAGES PROHIBITED.

(a) Except as provided by this section, a wine and malt beverage retailer's permittee or an officer of the permittee may not possess distilled spirits or liquor containing alcohol in excess of 17 percent by volume on the licensed premises.

(b) The commission by rule may allow a wine and malt beverage retailer's permittee or the permittee's officer to possess and use alcoholic beverages in excess of 17 percent by volume on the licensed premises for cooking purposes.

Acts 1977, 65th Leg., p. 427, ch. 194, Sec. 1, eff. Sept. 1, 1977.  
Amended by Acts 1999, 76th Leg., ch. 418, Sec. 3, eff. Sept. 1,  
1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 441 (H.B. [2237](#)), Sec. 1, eff.  
September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 106,  
eff. September 1, 2021.

Sec. 25.10. APPLICATION OF OTHER CODE PROVISIONS. Sections [61.78](#), [61.81](#), [61.82](#), and [61.84](#) also apply to a wine and malt beverage retailer's permit. The restrictions in this code relating to malt beverages as to the application of local restrictions, sales to minors and intoxicated persons, age of employees, and the use of blinds or barriers apply to the sale of alcoholic beverages by a wine and malt beverage retailer's permittee.

Acts 1977, 65th Leg., p. 427, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 107,  
eff. September 1, 2021.

Sec. 25.11. SEATING AREA REQUIRED. A wine and malt beverage retailer's permittee must have an area designated on the premises for the permittee's customers to sit if they wish to consume beverages sold by the permittee on the premises.

Added by Acts 1983, 68th Leg., p. 2211, ch. 414, Sec. 1, eff. Sept. 1, 1983.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 108,  
eff. September 1, 2021.

Sec. 25.12. PREMISES IN A FOOD COURT. (a) Notwithstanding any provision of this code to the contrary, the premises of a wine and malt beverage retailer's permittee who leases space in a food court includes the seating area that the permittee shares with the other lessees that occupy the food court.

(b) For the purposes of this section, "food court" means an area in a shopping mall that includes a seating area and the locations of three or more separate but adjacent business establishments engaged primarily in the sale of food and beverages for consumption in the seating area.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 109, eff. September 1, 2021.

Sec. 25.13. FOOD AND BEVERAGE CERTIFICATE. (a) In this section, "location" means the designated physical address of the wine and malt beverage retailer's permit and includes all areas at the address where the permit holder may sell or deliver alcoholic beverages for immediate consumption regardless of whether some of those areas are occupied by other businesses.

(a-1) A holder of a wine and malt beverage retailer's permit may be issued a food and beverage certificate by the commission if:

(1) the permit holder is a restaurant; or

(2) the commission finds that the receipts from the sale of alcoholic beverages by the permit holder at the location are 60 percent or less of the total receipts from the location.

(b) A food and beverage certificate may not be issued unless the location has permanent food service facilities for the preparation and service of multiple entrees for consumption at the location.

(b-1) The commission shall adopt rules requiring the holder of a food and beverage certificate to assure that permanent food service facilities for the preparation and service of multiple entrees for consumption at the location are available at the location. The commission may exempt permittees who are concessionaires in public entertainment venues such as sports stadiums and convention centers from Subsections (a-1) and (b).

(c) The fee for a food and beverage certificate shall be set at a level sufficient to recover the cost of issuing the certificate and administering this section.

(d) A certificate issued under this section expires on the expiration of the primary wine and malt beverage retailer's

permit. A certificate may be canceled at any time, and the renewal of a certificate may be denied, if the commission finds that the holder of the certificate is in violation of Subsection (a-1) or (b) or a rule adopted under Subsection (b-1). On finding that the permittee knowingly operated under a food and beverage certificate while not complying with this section or a rule adopted under Subsection (b-1), the commission may cancel or deny the renewal of the permittee's wine and malt beverage retailer's permit. The holder of a wine and malt beverage retailer's permit whose certificate has been canceled or who is denied renewal of a certificate under this subsection may not apply for a new certificate until the day after the first anniversary of the date the certificate was canceled or the renewal of the certificate was denied.

(e) Section 11.11 does not apply to the holder of a food and beverage certificate.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 110, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 305 (S.B. 911), Sec. 2, eff. January 1, 2022.

Sec. 25.14. ISSUANCE OF PERMIT AUTHORIZED FOR CERTAIN AREAS. (a) Notwithstanding any other provision of this code, a permit under this chapter may be issued for a premises in an area in which the voters have approved the following alcoholic beverage ballot issues in a local option election:

(1) "The legal sale of malt beverages and wine for off-premise consumption only."; and

(2) either:

(A) "The legal sale of mixed beverages."; or

(B) "The legal sale of mixed beverages in restaurants by food and beverage certificate holders only."

(b) A premises that qualifies for a permit under this chapter because it is located in an area that approved the ballot issue described by Subsection (a)(2)(B) may be issued a permit under this chapter only if the premises is issued a food and

beverage certificate.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 111, eff. September 1, 2021.

Sec. 25.15. DELIVERIES AND COLLECTIONS. The holder of a wine and beer retailer's permit who is also the holder of a local cartage permit may make deliveries to and collections from ultimate consumers in the same manner as the holder of a package store permit under Section 22.03.

Added by Acts 2019, 86th Leg., R.S., Ch. 434 (S.B. 1232), Sec. 1, eff. September 1, 2019.

Sec. 25.16. SALES AT TEMPORARY LOCATION. (a) The holder of a wine and malt beverage retailer's permit may temporarily at a location other than the permit holder's premises sell for consumption on or off the premises where sold, but not for resale, wine and malt beverages containing alcohol in excess of one-half of one percent by volume but not more than 17 percent by volume at a picnic, celebration, or similar event.

(b) The holder of a wine and malt beverage retailer's permit may temporarily sell wine and malt beverages for not more than four consecutive days at the same location under Subsection (a) and not more than five consecutive days at an event under Subsection (d) or six days if necessary to accommodate the postponement of scheduled racing events due to an act of nature.

(c) The commission shall adopt rules to implement this section, including rules that:

(1) require the permit holder to notify the commission of the dates on which and location where the permit holder will temporarily offer wine and malt beverages for sale under this section;

(2) establish a procedure to verify the wet or dry status of the location where the permit holder intends to temporarily sell wine and malt beverages under this section;

(3) detail the circumstances when a permit holder may temporarily sell wine and malt beverages under this section with

only a notification to the commission and the circumstances that require the commission's preapproval before a permit holder may temporarily sell wine and malt beverages under this section;

(4) establish the length of time a permit holder may sell wine and malt beverages under this section at the same location; and

(5) require the permit holder to provide any other information the commission determines necessary.

(d) The holder of a wine and malt beverage retailer's permit may temporarily sell wine and malt beverages in an area of a facility with a seating capacity of more than 150,000 that is open to the public and not otherwise covered by a license or permit during a motor vehicle racing event sponsored by a professional motor racing association.

(e) The holder of a wine and malt beverage retailer's permit who temporarily sells wine and malt beverages under Subsection (d) may not:

(1) sell under this section at the facility more than four times in a calendar year;

(2) sell alcoholic beverages in factory-sealed containers;

(3) sell more than two drinks to a single consumer at one time;

(4) sell alcoholic beverages at more than 50 percent of the food and beverage concession stands that are open for business at any one time; and

(5) sell alcoholic beverages after:

(A) 75 percent of the feature race is complete on the day that race is held; and

(B) one hour before the scheduled completion of the last spectator event on a day other than the feature race day.

(f) A holder of a wine and malt beverage retailer's permit that sells wine or malt beverages under that permit in a county other than the county in which the premises covered by the permit is located must:

(1) purchase the beverages from a distributor or wholesaler authorized under this code to sell the beverages in the



county in which the permit holder sells the beverages under this section; and

(2) report to the commission, in the manner prescribed by the commission by rule, the amount of beverages purchased and sold under this section, by type.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 112, eff. September 1, 2021.

Redesignated from Alcoholic Beverage Code, Section [25.15](#) by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. [3607](#)), Sec. 21.001(2), eff. September 1, 2021.