

ALCOHOLIC BEVERAGE CODE

TITLE 2. ADMINISTRATION OF CODE

CHAPTER 5. ALCOHOLIC BEVERAGE COMMISSION

SUBCHAPTER A. ADMINISTRATIVE PROVISIONS

Sec. 5.01. TEXAS ALCOHOLIC BEVERAGE COMMISSION. (a) The Texas Alcoholic Beverage Commission is an agency of the state.

(b) The Texas Alcoholic Beverage Commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and Subchapter A, Chapter 5, expires September 1, 2031.

Acts 1977, 65th Leg., p. 397, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1965, ch. 777, Sec. 2, eff. Aug. 27, 1979; Acts 1985, 69th Leg., ch. 462, Sec. 17, eff. Aug. 26, 1985; Acts 1985, 69th Leg., ch. 479, Sec. 190, eff. Sept. 1, 1985; Acts 1985, 69th Leg., ch. 729, Sec. 17, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 303, Sec. 5, eff. June 11, 1987; Acts 1987, 70th Leg., ch. 1008, Sec. 11, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 2, Sec. 3.01, eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 238, Sec. 38, eff. Jan. 1, 1990; Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 1.01, eff. Nov. 12, 1991; Acts 1993, 73rd Leg., ch. 934, Sec. 3, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 1227 (H.B. 1116), Sec. 1.03(a), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. 904), Sec. 2, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 5, eff. September 1, 2019.

Sec. 5.02. MEMBERS OF COMMISSION; APPOINTMENT. (a) The commission is composed of five members, who are appointed by the governor with the advice and consent of the senate.

(b) Each member must be a Texas resident, must have resided in the state for at least five years next preceding his appointment and qualification, and must be a qualified voter in the state at the

time of his appointment and qualification.

(c) Appointments to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(d) A person is not eligible for appointment if the person's spouse is disqualified for appointment under Section 5.05 of this code.

Acts 1977, 65th Leg., p. 397, ch. 194, Sec. 1, eff. Sept. 1, 1977.  
Amended by Acts 1985, 69th Leg., ch. 403, Sec. 1, eff. Aug. 26, 1985.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. 904), Sec. 3, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 6, eff. September 1, 2019.

Sec. 5.022. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

- (1) the law governing commission operations;
- (2) the programs, functions, rules, and budget of the commission;
- (3) the scope of and limitations on the rulemaking authority of the commission;
- (4) the results of the most recent formal audit of the commission;
- (5) the requirements of:
  - (A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and
  - (B) other laws applicable to members of a state policymaking body in performing their duties; and
- (6) any applicable ethics policies adopted by the

commission or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

(d) The administrator of the commission shall create a training manual that includes the information required by Subsection (b). The administrator shall distribute a copy of the training manual annually to each member of the commission. Each member of the commission shall sign and submit to the administrator a statement acknowledging that the member received and has reviewed the training manual.

Added by Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. 904), Sec. 4, eff. September 1, 2007.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 7, eff. September 1, 2019.

Sec. 5.03. TERMS OF OFFICE. The members of the commission hold office for staggered terms of six years, with the term of one or two members expiring every two years. Each member holds office until the member's successor is appointed and has qualified. The governor may appoint a member to serve consecutive terms.

Acts 1977, 65th Leg., p. 397, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 8, eff. September 1, 2019.

Sec. 5.04. PRESIDING OFFICER. The governor shall designate a member of the commission as the presiding officer of the commission to serve in that capacity at the pleasure of the governor.

Acts 1977, 65th Leg., p. 397, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. 904), Sec. 5, eff. September 1, 2007.

Sec. 5.05. RELATIONSHIP WITH ALCOHOLIC BEVERAGE BUSINESS PROHIBITED.

(a) A person may not be appointed to or serve on the commission, or hold an office under the commission, or be employed by the commission, if the person is employed by or has a financial interest in an alcoholic beverage business. For purposes of this subsection, a person has a financial interest in an alcoholic beverage business if:

(1) the person owns or controls, directly or indirectly, an ownership interest of:

(A) at least five percent in a single alcoholic beverage business, including the right to share in profits, proceeds, or capital gains; or

(B) at least five percent cumulative interest, including the right to share in profits, proceeds, or capital gains, in multiple alcoholic beverage businesses; or

(2) the person's spouse or child has an ownership interest described by Subdivision (1).

(a-1) A financial interest prohibited by Subsection (a) does not include an ownership interest under a retirement plan, a blind trust, or insurance coverage, or an ownership interest of less than five percent in a corporation.

(a-2) Notwithstanding any other law, a child of a commission employee may be employed by the holder of a license or permit issued under this code.

(a-3) The commission shall establish an agency policy requiring employees to disclose information regarding their children's employment by a holder of a license or permit issued under this code.

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 415(b)(2), eff. September 1, 2019.

(c) A person may not be a member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

(d) A person may not be a member of the commission and may not be a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of alcoholic beverages; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of alcoholic beverages.

(e) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of businesses or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

Acts 1977, 65th Leg., p. 397, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1985, 69th Leg., ch. 403, Sec. 2, eff. Aug. 26, 1985; Acts 1987, 70th Leg., ch. 167, Sec. 2.19(12), eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 934, Sec. 4, eff. Sept. 1, 1993.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. [904](#)), Sec. 6, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1189 (S.B. [1228](#)), Sec. 1, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 9, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 415(b)(2), eff. September 1, 2019.

Sec. 5.051. GROUNDS FOR REMOVAL FROM COMMISSION. (a) It is a ground for removal from the commission that a member:

(1) does not have at the time of taking office the qualifications required by Section [5.02](#);

(2) does not maintain during service on the commission

the qualifications required by Section 5.02;

(3) is ineligible for membership under Section 5.05;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it was taken when a ground for removal of a commission member exists.

(c) If the administrator has knowledge that a potential ground for removal exists, the administrator shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the administrator shall notify the next highest ranking officer of the commission, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1985, 69th Leg., ch. 403, Sec. 3, eff. Aug. 26, 1985.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. 904), Sec. 7, eff. September 1, 2007.

Sec. 5.06. COMMISSION OFFICE. The office of the commission shall be in the city of Austin.

Acts 1977, 65th Leg., p. 397, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 5.07. COMMISSION MEETINGS. (a) The commission may meet in the city of Austin at times it determines.

(b) A majority of the members constitutes a quorum for the transaction of business or for the exercise of any of the powers or duties of the commission.

(c) The commission shall develop and implement policies that will provide the public with a reasonable opportunity to

appear before the commission and to speak on any issue under the jurisdiction of the commission.

(d) Repealed by Acts 2001, 77th Leg., ch. 1420, Sec. 14.724, eff. Sept. 1, 2001.

Acts 1977, 65th Leg., p. 397, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1985, 69th Leg., ch. 403, Sec. 4, eff. Aug. 26, 1985; Acts 1989, 71st Leg., ch. 238, Sec. 39, eff. Jan. 1, 1990; Acts 2001, 77th Leg., ch. 1420, Sec. 14.724, eff. Sept. 1, 2001.

Sec. 5.08. PER DIEM, EXPENSES. Members of the commission receive per diem as provided by the General Appropriations Act for not more than 60 days a year, plus actual expenses, while attending commission meetings or otherwise engaged in the performance of their duties.

Acts 1977, 65th Leg., p. 397, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 988 (H.B. [3829](#)), Sec. 1, eff. June 19, 2009.

Sec. 5.10. EMPLOYEES; COMPENSATION; BONDS. (a) The commission or administrator may employ clerks, stenographers, inspectors, chemists, and other employees necessary to properly enforce this code.

(b) The administrator or the administrator's designee shall develop an intra-agency career ladder program. The program shall require the intra-agency posting of all nonentry level positions concurrently with any public posting. The administrator or the administrator's designee shall develop a system of annual performance evaluations. All merit pay for commission employees must be based on the system established under this subsection. The employees shall be compensated as provided by legislative appropriation. The commission or administrator shall determine the duties of all employees of the commission.

(c) The administrator or the administrator's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race,

color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that are in compliance with the requirements of Chapter 21, Labor Code;

(2) a comprehensive analysis of the commission work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underuse in the commission work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underuse.

(d) A policy statement prepared under Subsection (c) of this section must cover an annual period, be updated annually and reviewed by the Commission on Human Rights for compliance with Subsection (c)(1) of this section, and be filed with the governor's office. The governor's office shall deliver a biennial report to the legislature based on the information submitted under this subsection. The report may be made separately or as a part of other biennial reports made to the legislature.

(e) Repealed by Acts 2003, 78th Leg., ch. 285, Sec. 31(4).

(f) Repealed by Acts 1993, 73rd Leg., ch. 934, Sec. 110, eff. Sept. 1, 1993.

Acts 1977, 65th Leg., p. 398, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1985, 69th Leg., ch. 403, Sec. 6, eff. Aug. 26, 1985; Acts 1993, 73rd Leg., ch. 934, Sec. 5, 110, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 285, Sec. 31(4), eff. Sept. 1, 2003.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 2.001, eff. September 1, 2023.

Sec. 5.101. HUMAN RESOURCES DIVISION. (a) A human resources division is established within the commission.

(b) The division is responsible for personnel, recruiting,

hiring, and other human resource functions and shall provide recruiting and technical assistance to the divisions and regional offices of the commission.

(c) The division shall develop policies and procedures related to recruitment, hiring, and other human resource functions that are in compliance with state and federal law.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 6, eff. Sept. 1, 1993.

Sec. 5.102. RECRUITMENT. For the purpose of providing adequate personnel for all job positions in the commission, the commission shall:

(1) develop a recruiting program that identifies underrepresentation with the commission and focuses on recruiting different ethnic, racial, or gender groups for job categories in which underrepresentation occurs; and

(2) require that all applicants be reviewed by the human resources division to ensure consideration of underrepresented ethnic, racial, or gender groups.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 6, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 1079, Sec. 1, eff. June 19, 1997.

Sec. 5.103. ANNUAL REPORT. The administrator shall report not later than February 1 of each year to the commission on the progress of the commission in the recruitment and hiring of personnel in compliance with the commission's recruitment and hiring policies.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 6, eff. Sept. 1, 1993.

Sec. 5.11. ADMINISTRATOR. (a) The commission shall appoint an administrator to serve at its will and, subject to its supervision, administer this code. Unless the commission orders otherwise, the administrator shall be manager, secretary, and custodian of all records. The administrator shall devote the administrator's entire time to the office and shall receive a salary as appropriated by the legislature.

(b) The administrator is also known as the executive

director.

Acts 1977, 65th Leg., p. 398, ch. 194, Sec. 1, eff. Sept. 1, 1977.  
Amended by Acts 2003, 78th Leg., ch. 285, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. [1090](#)), Sec. 2, eff. September 1, 2013.

Sec. 5.12. DUTIES OF ADMINISTRATOR. The commission shall specify the duties and powers of the administrator by printed rules and regulations entered in its minutes and shall develop and implement policies that clearly separate the policy-making responsibilities of the commission and the management responsibilities of the administrator and the staff of the commission. The commission or administrator may develop a procedure under which the commission or administrator, or the designee of either, may negotiate the repayment of debts owed the commission, including fees and delinquent taxes. When this code imposes concurrent powers or duties on the commission and the administrator, the commission shall designate those powers and duties which it delegates to the administrator. An order, decision, or judgment rendered and entered by the administrator in a matter in which the administrator has been authorized to act is not subject to change, review, or revision by the commission. A concurrent power or duty which has not been specifically delegated to the administrator by the commission's order is retained by the commission, and an order, decision, or judgment rendered and entered by the commission in a matter in which the commission has retained authority is not subject to change, review, or revision by the administrator.

Acts 1977, 65th Leg., p. 398, ch. 194, Sec. 1, eff. Sept. 1, 1977.  
Amended by Acts 1985, 69th Leg., ch. 403, Sec. 7, eff. Aug. 26, 1985; Acts 1989, 71st Leg., 1st C.S., ch. 36, Sec. 2, eff. Oct. 18, 1989.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. [904](#)), Sec. 8, eff. September 1, 2007.

Sec. 5.13. ASSISTANT ADMINISTRATOR. (a) The administrator shall appoint an assistant administrator. The assistant administrator must meet the same qualifications as the administrator. The assistant administrator shall take the constitutional oath of office. In the absence of the administrator, or in case of the administrator's inability to act, the assistant administrator shall perform the duties conferred on the administrator by law or delegated to the administrator by the commission. If there is a vacancy in the office of administrator, the assistant administrator shall perform the duties of the administrator until an administrator has been appointed by the commission. At other times the assistant administrator shall perform those duties and have those functions, powers, and authority as may be delegated to the assistant administrator by the administrator.

(b) The assistant administrator is also known as the deputy executive director.

Acts 1977, 65th Leg., p. 398, ch. 194, Sec. 1, eff. Sept. 1, 1977.  
Amended by Acts 2003, 78th Leg., ch. 285, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. [1090](#)), Sec. 3, eff. September 1, 2013.

Sec. 5.14. INSPECTORS AND REPRESENTATIVES. The commission or administrator may commission as many inspectors and representatives as are necessary to enforce this code and other laws administered by the commission. Each inspector and representative shall take the constitutional oath of office, which shall be filed in the office of the commission. Each commissioned inspector and representative has all the powers of a peace officer coextensive with the boundaries of the state.

Acts 1977, 65th Leg., p. 398, ch. 194, Sec. 1, eff. Sept. 1, 1977.  
Amended by Acts 1989, 71st Leg., ch. 238, Sec. 40, eff. Jan. 1, 1990; Acts 2003, 78th Leg., ch. 285, Sec. 4, eff. Sept. 1, 2003.

Sec. 5.141. PURCHASE OF FIREARM FROM COMMISSION BY INSPECTOR OR REPRESENTATIVE. (a) A commissioned inspector or representative of the commission may purchase for an amount set by the commission, not to exceed fair market value, a firearm issued to the inspector or representative by the commission if the firearm is not listed as a prohibited weapon under Section 46.05, Penal Code, and if the firearm is retired by the commission for replacement purposes.

(b) The commission may adopt rules for the sale of a retired firearm to an inspector or representative of the commission.

Added by Acts 1991, 72nd Leg., ch. 37, Sec. 2, eff. April 19, 1991.  
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 14.01, eff. Sept. 1, 1995.

Sec. 5.142. SPECIAL INSPECTORS OR REPRESENTATIVES. (a) The commission or administrator may appoint as a special inspector or representative an honorably retired commissioned inspector or representative.

(b) A special inspector or representative is subject to the orders of the commission and is subject to the orders of the governor for special duty to the same extent as other law enforcement officers.

(c) Repealed by Acts 2003, 78th Leg., ch. 285, Sec. 31(5).

(d) A special inspector or representative is not entitled to compensation from the state for service as a special inspector or representative.

(e) A special inspector or representative commission expires January 1 of the first odd-numbered year after appointment. The commission may revoke a special inspector or representative commission at any time for cause.

Added by Acts 1993, 73rd Leg., ch. 35, Sec. 1, eff. April 16, 1993.  
Amended by Acts 2003, 78th Leg., ch. 285, Sec. 31(5), eff. Sept. 1, 2003.

Sec. 5.15. ASSISTANT ATTORNEYS GENERAL. The attorney general may appoint as many as six assistant attorneys general, as the commission determines necessary, to enable the commission to

more efficiently enforce this code. The attorney general and the assistant attorneys general shall prosecute all suits requested by the commission and defend all suits against the commission. The commission shall provide the assistant attorneys general with necessary stenographers and office space. The assistant attorneys general shall be paid by the commission out of funds appropriated to it for the administration of this code. Their compensation shall be on the same basis as assistant attorneys general devoting their time to general state business.

Acts 1977, 65th Leg., p. 399, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. [1090](#)), Sec. 4, eff. September 1, 2013.

Sec. 5.16. REPRESENTATION IN APPEAL TO COMMISSION. No member of the legislature or other person may appear for compensation in a representational capacity in an appeal to the commission unless he first files an affidavit supplied by the commission and makes a full disclosure of whom he represents and of the fact that he is being compensated for doing so. The commission shall provide appropriate forms, and these records are a public record of the commission.

Acts 1977, 65th Leg., p. 399, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 5.17. SUITS AGAINST THE COMMISSION: VENUE. In all suits against the commission, except appeals governed by Section [11.67](#) or [32.18](#) of this code, venue is in Travis County.

Acts 1977, 65th Leg., p. 399, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 5.18. AUDIT. The financial transactions of the commission are subject to audit by the state auditor in accordance with Chapter [321](#), Government Code.

Added by Acts 1985, 69th Leg., ch. 403, Sec. 8, eff. Aug. 26, 1985.

Amended by Acts 1989, 71st Leg., ch. 584, Sec. 35, eff. Sept. 1, 1989.

Sec. 5.20. STANDARDS OF CONDUCT INFORMATION. The

commission shall provide to its members and employees, as often as necessary, information regarding their qualification for office or employment under this code and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 7, eff. Sept. 1, 1993.

Sec. 5.21. ADVISORY COMMITTEES. (a) The commission, by rule, may establish advisory committees it considers necessary to accomplish the purposes of this code.

(b) Chapter 2110, Government Code, applies to an advisory committee created by the commission.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 10, eff. September 1, 2019.

#### SUBCHAPTER B. POWERS AND DUTIES

Sec. 5.31. GENERAL POWERS AND DUTIES. (a) The commission may exercise all powers, duties, and functions conferred by this code, and all powers incidental, necessary, or convenient to the administration of this code. It shall inspect, supervise, and regulate every phase of the business of manufacturing, importing, exporting, transporting, storing, selling, advertising, labeling, and distributing alcoholic beverages, and the possession of alcoholic beverages for the purpose of sale or otherwise. It may prescribe and publish rules necessary to carry out the provisions of this code.

(b) The commission shall:

(1) protect the public safety by deterring and detecting violations of this code;

(2) promote legal and responsible alcohol consumption;

(3) ensure fair competition within the alcoholic beverage industry;

(4) ensure consistent, predictable, and timely enforcement of this code;

(5) ensure a consistent, predictable, and timely

licensing and permitting process;

(6) promote and foster voluntary compliance with this code; and

(7) communicate the requirements of this code clearly and consistently.

Acts 1977, 65th Leg., p. 399, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. 904), Sec. 9, eff. September 1, 2007.

Sec. 5.32. MAY REQUIRE REPORTS. The commission may require persons engaged in the alcoholic beverage business to provide information, records, or other documents the commission finds necessary to accomplish the purposes of this code.

Acts 1977, 65th Leg., p. 399, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. 1090), Sec. 5, eff. September 1, 2013.

Sec. 5.321. ELECTRONIC SIGNATURES. Any electronic information, record, or other document, including an application, submitted to the commission that has an electronic signature with the required specific identifiers of the signatory has the same force and effect as a manual signature before a notary public and is considered a sworn statement for purposes of Section 101.69, notwithstanding any other law.

Added by Acts 2015, 84th Leg., R.S., Ch. 40 (S.B. 700), Sec. 1, eff. September 1, 2015.

Sec. 5.33. REGULATE LICENSEES AND PERMITTEES. The commission shall supervise and regulate licensees and permittees and their places of business in matters affecting the public. This authority is not limited to matters specifically mentioned in this code.

Acts 1977, 65th Leg., p. 399, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 5.331. PUBLIC DISTURBANCE REPORTS. Local law

enforcement agencies in each county with a population of 3.3 million or more shall send to the commission reports and other data concerning shootings, stabbings, and other public disturbances that occur on the premises of a permittee or licensee. The reports and data shall be incorporated into the record of the permittee or licensee. The administrator of the Texas Alcoholic Beverage Commission shall prescribe the form and content of such reports.

Added by Acts 1985, 69th Leg., ch. 688, Sec. 1, eff. Sept. 1, 1985.  
Amended by Acts 2001, 77th Leg., ch. 669, Sec. 2, eff. Sept. 1, 2001.

Sec. 5.34. DELEGATION OF AUTHORITY. (a) The commission may authorize its commissioned peace officers, servants, and employees to carry out, under its direction, the provisions of this code.

(b) The commission shall develop and implement policies that clearly define the respective responsibilities of the commission and the staff of the commission.

Acts 1977, 65th Leg., p. 400, ch. 194, Sec. 1, eff. Sept. 1, 1977.  
Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 8, eff. Sept. 1, 1993.

Sec. 5.35. ISSUANCE OF PERMITS AND LICENSES. The commission may grant, refuse, suspend, or cancel alcoholic beverage permits and licenses as provided in this code.

Acts 1977, 65th Leg., p. 400, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 5.36. INVESTIGATION OF VIOLATIONS. (a) The commission shall investigate violations of this code and of other laws relating to alcoholic beverages, and shall cooperate in the prosecution of offenders before any court of competent jurisdiction. The commission may seize alcoholic beverages manufactured, sold, kept, imported, or transported in violation of this code and apply for the confiscation of the beverages if required to do so by this code.

(b) Repealed by Acts 1993, 73rd Leg., ch. 790, Sec. 46(2), eff. Sept. 1, 1993.

Acts 1977, 65th Leg., p. 400, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1979, 66th Leg., p. 1970, ch. 777, Sec. 14, eff. Aug. 27, 1979; Acts 1993, 73rd Leg., ch. 790, Sec. 46(2), eff. Sept. 1, 1993.

Sec. 5.361. ENFORCEMENT; INSPECTIONS. (a) The commission shall develop a risk-based approach to conducting its enforcement activities that focuses on:

(1) detecting serious violations that impact public safety;

(2) monitoring entities that have a history of complaints and violations of this code; and

(3) any other factors the commission considers important.

(a-1) As part of the commission's enforcement activities under this section, the commission by rule shall develop a plan for inspecting permittees and licensees using a risk-based approach that prioritizes public safety. The inspection plan may provide for a virtual inspection of the permittee or licensee that may include a review of the permittee's or licensee's records or it may also require a physical inspection of the permittee's or licensee's premises.

(a-2) The inspection plan must:

(1) establish a timeline for the inspection of each permittee and licensee that ensures that high-risk permittees and licensees are prioritized; and

(2) require the commission to physically inspect the premises of each permittee and licensee within a reasonable time as set by rule.

(b) The commission shall develop benchmarks and goals to track key enforcement activities and the results of those activities. For each type of enforcement activity, the commission shall track the number of violations detected by the enforcement activity, the amount of time spent on the enforcement activity, and any other information the commission considers necessary. The commission shall use the information collected under this subsection and other information to compare the enforcement performance of each region and to determine the most effective

enforcement activities.

(c) The commission shall track, on a statewide and regional basis, the type of violations detected, the disposition of the violations, and the entities that committed the most serious violations.

(d) The commission shall compile detailed statistics and analyze trends related to its enforcement activities. The commission shall:

(1) summarize the statistics and trends for executive management on a monthly basis and for the members of the commission on a quarterly basis; and

(2) make summary information available to the public, including by posting the information on the commission's Internet website.

Added by Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. [904](#)), Sec. 10, eff. September 1, 2007.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 11, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 12, eff. September 1, 2019.

Sec. 5.362. SCHEDULE OF SANCTIONS. (a) The commission by rule shall adopt a schedule of sanctions that may be imposed on a license or permit holder for violations of this code or rules adopted under this code. In adopting the schedule of sanctions, the commission shall ensure that the severity of the sanction imposed is appropriate to the type of violation that is the basis for disciplinary action.

(b) For each violation for which a license or permit may be suspended, the schedule of sanctions must include the number of days a permit or license would be suspended and the corresponding civil penalty under Section [11.64](#).

(c) In determining the appropriate sanction for a violation under the schedule, the commission or administrator shall consider:

(1) the type of license or permit held by the person who committed the violation;

- (2) the type of violation;
- (3) any aggravating or ameliorating circumstances concerning the violation; and
- (4) the license or permit holder's previous violations of this code.

(d) The schedule must:

(1) allow deviations from the schedule for clearly established mitigating circumstances, including circumstances listed in Section 11.64(c), or aggravating circumstances; and

(2) include a list of the most common violations by members of the manufacturing, wholesaling, and retailing tiers of the alcoholic beverage industry and the sanctions assessed for those violations.

(e) The commission shall develop policies to guide commission staff in determining the circumstances when it is appropriate to deviate from the schedule of sanctions. The policies must identify the circumstances when approval is required in order to deviate from the schedule.

(f) The commission shall make the schedule of sanctions available to the public, including by posting the schedule on the commission's Internet website.

Added by Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. 904), Sec. 10, eff. September 1, 2007.

Sec. 5.363. DISCIPLINARY AUTHORITY OF ADMINISTRATOR AND COMMISSION. (a) The commission by rule may delegate to the administrator the authority to take disciplinary and enforcement actions against a person subject to the commission's regulation under this code, including the authority to enter into an agreed settlement of a disciplinary action. In the rules adopted under this subsection, the commission shall specify a threshold for the types of disciplinary and enforcement actions that are delegated to the administrator.

(b) The commission shall make the final decision in any disciplinary action in a contested case that has had an administrative hearing.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 13,

eff. September 1, 2019.

Sec. 5.364. RECEIPT AND USE OF MARKET DATA. (a) The commission may receive market data that is voluntarily provided by a licensee or permittee under this code.

(b) The commission may only use the market data received under Subsection (a) for the commission's law enforcement purposes. The commission may not use the data to create a database of information containing individually identifying information.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 13, eff. September 1, 2019.

Sec. 5.37. COLLECTION OF TAXES AT SOURCE. (a) If the federal government provides a method of collecting liquor taxes at the source, the commission may enter contracts and comply with regulations, even to the extent of abrogating provisions of this code which are inconsistent with federal law or regulations, in order to receive the portion of the taxes allocated to the state. The taxes received shall be distributed as provided in this code.

(b) The commission may acquire by gift, grant, or purchase, port of entry or other facilities for the administration of the Alcoholic Beverage Code, including the collection of taxes and confiscation of unlawful containers and illicit beverages. The commission may enter into agreements with agencies of the United States or other persons, if in the judgment of the commission, it will benefit the state to place facilities under its control through lease or sale from the United States or other persons. The commission may expend funds for the purpose of rehabilitating, renewing, restoring, extending, enlarging, improving, or performing routine maintenance on facilities under its control.

(c) For the purpose of complying with Chapter 455, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 678f, Vernon's Texas Civil Statutes), the commission is considered to be a public authority and unless the commission requests facilities to be obtained in accordance with Chapter 258, Acts of the 48th Legislature, Regular Session, 1943, as amended (Article 666b, Vernon's Texas Civil Statutes), the provisions of that Act do

not apply to the acquisition of facilities under this Act.

(d) The commission is authorized to receive in the form of a gift, grant, or donation, any funds consistent with the purposes and goals of the commission and the designation of the grantor. However, no gift, grant, or donation may be offered or accepted from any party to any contested case before the agency, or from any party licensed or regulated by the commission.

Acts 1977, 65th Leg., p. 400, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 612, ch. 287, Sec. 1, eff. May 24, 1979; Acts 1995, 74th Leg., ch. 1060, Sec. 1, eff. Aug. 28, 1995.

Sec. 5.371. PROCEEDS FROM CONTRABAND. Property, money, and the proceeds from forfeited contraband provided to the commission by a federal agency or under state or federal law shall be deposited in the commission's account in the state treasury and may be appropriated only to the commission for law enforcement purposes. Funds under this section that are not expended at the close of a fiscal year shall be reappropriated for the same purpose the following fiscal year.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 9, eff. Sept. 1, 1993.

Sec. 5.38. QUALITY AND PURITY OF BEVERAGES. (a) The commission shall require by rule that any alcoholic beverage sold in this state conform in all respects to its advertised quality.

(b) The commission shall promulgate and enforce rules governing the labeling and advertising of all alcoholic beverages sold in the state, and shall adopt and enforce a standard of quality, purity, and identity of all alcoholic beverages. The commission shall promulgate and enforce necessary rules to safeguard the public health and to insure sanitary conditions in the manufacturing, refining, blending, mixing, purifying, bottling, rebottling, and sale of alcoholic beverages.

(c) The commission may test the contents of any alcoholic beverage manufactured or sold in the state to protect the public health and safety and to ensure that the product:

(1) is accurately represented to the public; and

(2) complies with state law and commission rules.

Acts 1977, 65th Leg., p. 400, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. 904), Sec. 11, eff. September 1, 2007.

Sec. 5.39. REGULATION OF LIQUOR CONTAINERS. The commission shall adopt rules to standardize the size of containers in which liquor may be sold in the state and relating to representations required or allowed to be displayed on or in the containers. To accommodate the alcoholic beverage industry's conversion to the metric system, the commission shall adopt rules permitting the importation and sale of liquor in metric-sized containers as well as in containers sized according to the United States standard gallon system.

Acts 1977, 65th Leg., p. 400, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 5.40. REGULATION OF MALT BEVERAGE CONTAINER DEPOSITS. If the commission finds it necessary to effectuate the purposes of this code, it may adopt rules to provide a schedule of deposits required to be obtained on malt beverage containers delivered by a licensee.

Acts 1977, 65th Leg., p. 400, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 14, eff. September 1, 2021.

Sec. 5.41. ALCOHOL USED FOR SCIENTIFIC PURPOSES, ETC. The commission shall license and regulate the use of alcohol and liquor for scientific, pharmaceutical, and industrial purposes. The commission shall provide by rule for the withdrawal of alcohol or liquor for those purposes from warehouses or denaturing plants, and shall prescribe the manner in which the alcohol or liquor may be used, tax free, for scientific research, in hospitals or sanitoriums, in industrial plants, or for other manufacturing purposes.

Acts 1977, 65th Leg., p. 400, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 5.42. PENALTY FOR VIOLATION OF RULE. A person who violates a valid rule of the commission is guilty of a misdemeanor and on conviction is punishable by the penalty prescribed in Section 1.05 of this code.

Acts 1977, 65th Leg., p. 401, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 5.43. WHO MAY HOLD HEARING; RULES OF EVIDENCE.

(a) Except for a hearing on the adoption of commission rules or a hearing on an employment matter, the commission designates the State Office of Administrative Hearings to conduct and make a record of any hearing authorized by this code. If the commission or administrator declares a hearing to be an emergency, the State Office of Administrative Hearings shall assign an administrative law judge or may contract with a qualified individual within five days and set a hearing as soon as possible.

(b) The commission may render a decision on the basis of the record or the proposal for decision if one is required under the administrative procedure law, Chapter 2001, Government Code, as if the commission had conducted the hearing. The commission may prescribe its rules of procedure for cases not heard by the State Office of Administrative Hearings.

Acts 1977, 65th Leg., p. 401, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 10, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 487, Sec. 1, eff. Aug. 28, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 15, eff. December 31, 2020.

Sec. 5.44. SUBPOENA OF WITNESSES; WITNESS FEES; CONTEMPT.

(a) The commission or administrator, or an inspector or representative of the commission under the direction of the commission, for the purposes of this code, may:

- (1) issue subpoenas;
- (2) compel the attendance of witnesses;
- (3) administer oaths;

(4) certify to official acts;

(5) take depositions inside or outside the state, as provided by law;

(6) compel the production of pertinent books, accounts, records, documents, and testimony; and

(7) certify to copies of documents as being true copies on file in the official records of the commission.

(b) If a witness in attendance before the commission or before an authorized representative refuses without reasonable cause to be examined or answer a legal or pertinent question, or to produce a book, record, or paper when ordered by the commission to do so, the commission may apply to the district court for a rule or order returnable in not less than two nor more than five days, directing the witness to show cause before the judge why he should not be punished for contempt. The commission may apply to the district court of any county where the witness is in attendance, on proof by affidavit of the fact, unless the order of contempt is sought under Chapter 2001, Government Code, in which case the commission shall apply to a district court of Travis County in conformity with that Act. On return of the order, the judge hearing the matter shall examine the witness under oath, and the witness shall be given an opportunity to be heard. If the judge determines that the witness has refused, without reasonable cause or legal excuse, to be examined or answer a legal or pertinent question, or to produce a book, record, or paper which he was ordered to bring or produce, he may forthwith punish the offender as for contempt of court.

(c) Subpoenas are served and witness fees and mileage paid as in civil cases in the district court in the county to which the witness is called, unless the proceeding for which the service or payment is made is pursuant to Chapter 2001, Government Code, in which case the service or payment shall be made as provided in that Act. Witnesses subpoenaed at the instance of the commission shall be paid their fees and mileage by the commission out of funds appropriated for that purpose.

Acts 1977, 65th Leg., p. 401, ch. 194, Sec. 1, eff. Sept. 1, 1977.  
Amended by Acts 1979, 66th Leg., p. 1970, ch. 777, Sec. 15, eff.

Aug. 27, 1979; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995.

Sec. 5.441. FEES AND EXPENSES PAID MEMBERS OR EMPLOYEES OF COMMISSION. (a) If a member of the commission, the administrator, or an employee of the commission is called to attend a federal or state judicial proceeding inside or outside the state and the attendance relates to the individual's duties with the commission, the individual shall pay to the comptroller any witness fees he receives. The comptroller shall deposit the fees in the state treasury to the credit of an appropriation made to the commission for payment of fees and mileage of witnesses called by the commission.

(b) An employee of the commission who travels inside or outside the state on official business as the designated representative of the administrator is entitled to reimbursement for meals, lodging, and travel at the same rate as is applicable to members of the commission.

Added by Acts 1979, 66th Leg., p. 1971, ch. 777, Sec. 16, eff. Aug. 27, 1979. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 1.01, eff. Sept. 1, 1997.

Sec. 5.45. PROOF OF DOCUMENT. (a) In a suit by the state or the commission or in which either is a party, a transcript from the papers, books, records, or proceedings of the commission purporting to contain a true statement of accounts between the commission or the state and any person, or a copy of a rule, order, audit, bond, contract, or other instrument relating to a transaction between the commission and a person, when certified by the administrator or chairman of the commission to be a true copy of the original on file with the commission and authenticated under the seal of the commission, is admissible as prima facie evidence of the existence and validity of the original document and entitled to the same credibility as the original document. If a suit is brought on a bond or other written instrument, and the person alleged to have executed the instrument denies by a sworn pleading to have executed the instrument, the court shall require the production and proof of

the instrument.

(b) A member of the commission or the administrator may execute a certificate under the seal of the commission setting forth the terms of an order, rule, bond, or other instrument referred to in this section. In the case of an order or rule, the certificate may state that the order or rule was adopted, promulgated, and published and filed with the commission and was in force at any date or during any period of time. In the case of a bond or other instrument, the certificate may state that it was executed and filed with the commission and was in force at any date or during any period of time. The certificate is prima facie evidence of the facts stated in it and is admissible as evidence in any action, civil or criminal, involving the facts contained in the certificate without further proof of those facts.

Acts 1977, 65th Leg., p. 402, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 5.47. RECORDS OF VIOLATIONS. Records of all violations of this code by permittees and licensees, records introduced and made public at hearings, and decisions resulting from the hearings relating to the violations shall be kept on file at the office of the commission in the city of Austin. The records are open to the public.

Acts 1977, 65th Leg., p. 402, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 5.48. PRIVATE RECORDS. (a) "Private records," as used in this section, means all records of a permittee, licensee, or other person other than the name, proposed location, and type of permit or license sought in an application for an original or renewal permit or license, or in a periodic report relating to the importation, distribution, or sale of alcoholic beverages required by the commission to be regularly filed by a permittee or licensee.

(b) The private records of a permittee, licensee, or other person that are required or obtained by the commission or its agents, in connection with an investigation or otherwise, are privileged unless introduced in evidence in a hearing before the commission or before a court in this state or the United States.

Acts 1977, 65th Leg., p. 402, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 5.49. PRINTED COPIES OF CODE AND RULES. The commission from time to time may have as many copies of this code and any commission rule governing the collection or refund of the gross receipts tax printed in pamphlet form for distribution as it finds necessary.

Acts 1977, 65th Leg., p. 402, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5225, ch. 956, Sec. 3, eff. Aug. 29, 1983.

Sec. 5.50. ESTABLISHMENT OF CERTAIN FEES. (a) The commission by rule may establish reasonable fees for tasks and services performed by the commission in carrying out the provisions of this code, including fees for the issuance of certificates, licenses, and permits under Title 3.

(b) The commission may not increase or decrease a fee set by this code, but if a statute is enacted creating a certificate, permit, or license and there is no fee established, the commission by rule may set a fee. The commission by rule shall assess a fee on all applicants for an original or renewal certificate, permit, or license issued by the commission and collect the fee at the time of application.

(b-1) The commission shall develop a process for setting fees that ensures the amount of the fees for an original or renewal certificate, permit, or license is sufficient to cover the costs incurred by the commission in administering this code. The process must:

(1) allow the commission to:

(A) consider relevant information including the type of business being regulated and the level of regulatory activities associated with each certificate, permit, or license; and

(B) set different fees for the same original or renewal certificate, permit, or license if the commission determines the level of regulatory activities associated with a certificate, permit, or license varies; and

(2) ensure that the commission does not overly

penalize any segment of the alcoholic beverage industry or impose an undue hardship on small businesses.

(b-2) The commission shall periodically review the amount of each fee collected under this code and adjust the amount of each fee to ensure that the commission's regulatory costs are fairly allocated among all certificate, permit, and license holders.

(c) The commission shall post on the commission's Internet website the maximum amount of the fee for each permit and license that a local governmental entity may levy and collect under Sections [11.38](#) and [61.36](#).

(d) Revenues from fees collected by the commission under this section shall be deposited in the general revenue fund.

Added by Acts 1987, 70th Leg., ch. 495, Sec. 1, eff. Aug. 31, 1987.

Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 11, eff. Sept. 1,

1993; Acts 1995, 74th Leg., ch. 1001, Sec. 4, eff. Aug. 28, 1995;

Acts 2003, 78th Leg., ch. 314, Sec. 1, eff. June 18, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 986 (S.B. [1217](#)), Sec. 1, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 16, eff. September 1, 2021.

Sec. 5.51. BOOKKEEPING RECORDS. A permittee who holds a permit issued under Chapter [28](#), [30](#), or [32](#) may elect to keep all records required under this code on a machine bookkeeping system. A permittee who desires to use such a system must submit a written application for commission approval of the system before implementing the system. The commission may authorize a permittee to centralize the permittee's records.

Added by Acts 1989, 71st Leg., 1st C.S., ch. 36, Sec. 1, eff. Oct. 18, 1989.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 17, eff. September 1, 2021.

Sec. 5.52. PROGRAM ACCESSIBILITY PLAN. The commission shall prepare and maintain a written plan that describes how a

person who does not speak English or who has a physical, mental, or developmental disability may be provided reasonable access to the commission's programs.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 12, eff. Sept. 1, 1993.

Sec. 5.53. PUBLIC INTEREST INFORMATION AND COMPLAINTS. (a) The commission shall adopt rules that clearly define the agency's complaint process from the time the complaint is received until it is resolved.

(b) The commission shall make information describing its procedures for complaint investigation and resolution available to the public and appropriate state agencies, including by posting the information on the commission's Internet website.

(c) The commission, by rule, shall adopt a standardized form for filing complaints against a licensed or permitted entity. The commission shall make the complaint form available to the public, including by posting the complaint form on the commission's Internet website.

(d) The commission by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the commission for the purpose of directing a complaint to the commission. The commission may require that the notification be provided on a sign prominently displayed in the place of business of each individual or entity regulated under this code.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 13, eff. Sept. 1, 1993.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. 904), Sec. 12, eff. September 1, 2007.

Sec. 5.54. RESOLUTION OF COMPLAINTS. (a) The commission shall maintain a system to promptly and efficiently act on complaints filed with the commission. The commission shall assign priorities to complaint investigations based on risk so that the commission handles the most serious complaints first.

(a-1) The commission shall maintain information about parties to the complaint, the subject matter of the complaint, a

summary of the results of the review or investigation of the complaint, and its disposition.

(b) If a written complaint is filed with the commission that the commission has authority to resolve, the commission, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

(c) The commission shall:

(1) compile:

(A) detailed statistics and analyze trends on complaint information, including:

(i) the nature of the complaints;

(ii) their disposition; and

(iii) the length of time to resolve complaints; and

(B) complaint information on a statewide and a regional basis;

(2) report the information on a monthly basis to executive management and on a quarterly basis to members of the commission; and

(3) make general information about the nature and disposition of complaints available to the public, including by posting the information on the commission's Internet website.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 14, eff. Sept. 1, 1993.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. 904), Sec. 13, eff. September 1, 2007.

Sec. 5.55. ELECTRONIC PROCESSING OF LICENSES, PERMITS, AND CERTIFICATES. (a) The commission shall expedite the processing of original and renewal applications for licenses, permits, and certificates by using electronic means, including the Internet.

(b) The commission or administrator may enter into an agreement with another agency of this state to provide for the issuance of original or renewal licenses, permits, or certificates through the use of electronic means, including use of the Internet, to facilitate the licensing process.

(c) A reasonable service fee may be charged to applicants who choose to use electronic or Internet service to apply for original or renewal licenses, permits, or certificates, subject to other laws limiting or defining those fees; provided, that no service fee may be charged by the commission or by another agency to those applicants who choose not to utilize the electronic or Internet method to apply for an original or a renewal license, permit, or certificate.

Added by Acts 2003, 78th Leg., ch. 1221, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. 904), Sec. 14, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 40 (S.B. 700), Sec. 2, eff. September 1, 2015.

Sec. 5.56. FUNDING OF TEXAS WINE MARKETING ASSISTANCE PROGRAM. (a) Notwithstanding any other law, on or before October 1 of each fiscal year, the commission shall transfer from funds appropriated to the commission \$250,000 to the Department of Agriculture to be used by the department to implement the Texas Wine Marketing Assistance Program established by Chapter 110.

(b) The commission in accordance with this subsection may recover the amount transferred under Subsection (a) by imposing a surcharge on licenses and permits issued or renewed by the commission each fiscal year. The surcharge shall be an amount equal to the amount transferred under Subsection (a) divided by the number of licenses and permits the commission anticipates issuing during that year, rounded down to the next lowest whole dollar.

(c) The governing body of an incorporated city or town or the commissioners court of a county may not levy and collect a fee under Section 11.38 or 61.36 based on a surcharge imposed under this section.

Added by Acts 2003, 78th Leg., ch. 101, Sec. 1, eff. Sept. 1, 2003.

Renumbered from Alcoholic Beverage Code, Section 5.55 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(1), eff. September 1, 2005.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 18, eff. September 1, 2019.

Sec. 5.57. MARKETING PRACTICES REGULATORY DECISIONS. (a) The commission shall develop a formal process for making policy decisions regarding marketing practices regulations and for communicating those decisions to agency staff and the alcoholic beverage industry.

(b) The commission shall gather input from a diverse group of representatives of the alcoholic beverage industry regarding regulatory issues and interpretations of this code and commission rules.

(c) The commission shall make a reasonable attempt to meet with alcoholic beverage industry representatives from:

(1) the manufacturing, distribution, and retail tiers of the industry; and

(2) the liquor, malt beverage, and wine segments of the industry.

(d) In making policy decisions regarding marketing practices regulations, the commission shall:

(1) take into consideration recommendations of the industry representatives consulted under this section;

(2) document its policy decisions by:

(A) using a precedents manual; or

(B) drafting formal advisories; and

(3) make those documents available to regional staff and industry members through its Internet website, electronic mail, or commission publications.

Added by Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. 904), Sec. 15, eff. September 1, 2007.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 19, eff. September 1, 2021.

Sec. 5.58. INTERNAL AFFAIRS. (a) The administrator shall establish an office of internal affairs to ensure fair and impartial investigations of alleged employee misconduct.

(b) The administrator shall appoint and directly oversee the head of the office of internal affairs.

(c) The office of internal affairs has original departmental jurisdiction over complaints involving commission personnel.

(d) The office of internal affairs staff shall coordinate and be the central reporting point for all employee investigations. The staff may initiate investigations of complaints; however, the staff must obtain the approval of the appropriate division director or higher-level executive management to investigate an employee when no complaint has been made.

(e) At least once each month, the head of the office of internal affairs shall report to the administrator information about the nature and status of each complaint investigated by the office of internal affairs.

(f) The head of the office of internal affairs shall submit a quarterly report to the members of the commission. The report must contain a summary of information relating to investigations conducted under this section, including an analysis of the number, type, and outcome of investigations, trends in the investigations, and recommendations to avoid future complaints.

(g) The commission shall inform the public about how to file a complaint against an employee of the commission and the steps the agency takes to address complaints against employees.

Added by Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. 904), Sec. 15, eff. September 1, 2007.

Sec. 5.581. DISCLOSURE OF PERSONNEL RECORDS OF COMMISSIONED PEACE OFFICERS. (a) In this section, "personnel record" includes any letter, memorandum, or document maintained by the commission that relates to a commissioned peace officer of the commission, including background investigations, employment applications, employment contracts, service and training records, requests for off-duty employment, birth records, reference letters, letters of recommendation, performance evaluations and counseling records, results of physical tests, polygraph questionnaires and results, proficiency tests, the results of health examinations and other

medical records, workers' compensation files, the results of psychological examinations, leave requests, requests for transfers of shift or duty assignments, commendations, promotional processes, demotions, complaints and investigations, employment-related grievances, and school transcripts.

(b) Except as provided by Subsection (c), the personnel records of a commissioned peace officer of the commission may not be disclosed under Chapter 552, Government Code, or otherwise made available to the public while there is a pending internal investigation for alleged employee misconduct.

(c) The commission may release any personnel record of a commissioned peace officer:

(1) pursuant to a subpoena or court order, including a discovery order;

(2) for use by the commission in an administrative hearing; or

(3) with the written authorization of the officer who is the subject of the record, as long as release of the information does not interfere with the investigation of alleged misconduct by the commissioned peace officer.

(d) A release of information under Subsection (c) does not waive the right to assert in the future that the information is excepted from required disclosure under this section or other law. Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 20, eff. September 1, 2019.

Sec. 5.59. USE OF TECHNOLOGY. The commission shall implement a policy requiring the commission to use appropriate technological solutions to improve the commission's ability to perform its functions. The policy must ensure that the public is able to interact with the commission on the Internet.

Added by Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. 904), Sec. 15, eff. September 1, 2007.

Sec. 5.60. ALTERNATIVE RULEMAKING AND DISPUTE RESOLUTION PROCEDURES. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of commission rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b) The commission's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the commission.

Added by Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. 904), Sec. 15, eff. September 1, 2007.

Sec. 5.61. TRAINING PROGRAM ON OPIOID-RELATED DRUG OVERDOSE. (a) In this section, "opioid antagonist" and "opioid-related drug overdose" have the meanings assigned by Section 483.101, Health and Safety Code.

(b) The commission shall develop a training program that provides training on:

(1) the signs and symptoms of an opioid-related drug overdose; and

(2) the administration of an opioid antagonist.

(c) The commission may make the training available online.

Added by Acts 2023, 88th Leg., R.S., Ch. 1087 (S.B. 998), Sec. 1, eff. September 1, 2023.