ALCOHOLIC BEVERAGE CODE
TITLE 1. GENERAL PROVISIONS
CHAPTER 1. GENERAL PROVISIONS

Sec. 1.01. PURPOSE OF CODE. (a) This code is enacted as a part of the state's continuing statutory revision program, begun by the Texas Legislative Council in 1963 as directed by the legislature in Chapter 448, Acts of the 58th Legislature, 1963 (Article 5429b-1, Vernon's Texas Civil Statutes). The program contemplates a topic-by-topic revision of the state's general and permanent statute law without substantive change.

(b) Consistent with the objectives of the statutory revision program, the purpose of this code is to make the general and permanent alcoholic beverage law more accessible and understandable, by:

(1) rearranging the statutes into a more logical order;

(2) employing a format and numbering system designed to facilitate citation of the law and to accommodate future expansion of the law;

(3) eliminating repealed, duplicative, unconstitutional, expired, executed, and other ineffective provisions; and

(4) restating the law in modern American English to the greatest extent possible.

Acts 1977, 65th Leg., p. 393, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 1.02. CONSTRUCTION OF CODE. The Code Construction Act (Chapter 311, Government Code) applies to the construction of each provision in this code, except as otherwise expressly provided by this code.

Acts 1977, 65th Leg., p. 393, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1985, 69th Leg., ch. 479, Sec. 67, eff. Sept. 1, 1985.

Sec. 1.03. PUBLIC POLICY. This code is an exercise of the police power of the state for the protection of the welfare, health, peace, temperance, and safety of the people of the state. It shall be liberally construed to accomplish this purpose.

Acts 1977, 65th Leg., p. 393, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 1.04. DEFINITIONS. In this code:

(1) "Alcoholic beverage" means alcohol, or any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.

(2) "Consignment sale" means:

(A) the delivery of alcoholic beverages under an agreement, arrangement, condition, or system by which the person receiving the beverages has the right at any time to relinquish possession to them or to return them to the shipper and in which title to the beverages remains in the shipper;

(B) the delivery of alcoholic beverages under an agreement, arrangement, condition, or system by which the person designated as the receiver merely acts as an intermediary for the shipper or seller and the actual receiver;

(C) the delivery of alcoholic beverages to a factor or broker;

(D) any method employed by a shipper or seller by which a person designated as the purchaser of alcoholic beverages does not in fact purchase the beverages;

(E) any method employed by a shipper or seller by which a person is placed in actual or constructive possession of an alcoholic beverage without acquiring title to the beverage; or

(F) any other type of transaction which may legally be construed as a consignment sale.

(3) "Distilled spirits" means alcohol, spirits of wine, whiskey, rum, brandy, gin, or any liquor produced in whole or in part by the process of distillation, including all dilutions or mixtures of them, and includes spirit coolers that may have an alcoholic content as low as four percent alcohol by volume and that contain plain, sparkling, or carbonated water and may also contain one or more natural or artificial blending or flavoring ingredients.

(4) "Illicit beverage" means an alcoholic beverage:

(A) manufactured, distributed, bought, sold, bottled, rectified, blended, treated, fortified, mixed, processed, warehoused, stored, possessed, imported, or transported in violation of this code;

(B) on which a tax imposed by the laws of this state has not been paid and to which the tax stamp, if required, has not been affixed; or

(C) possessed, kept, stored, owned, or imported with intent to manufacture, sell, distribute, bottle, rectify, blend, treat, fortify, mix, process, warehouse, store, or transport in violation of this code.

Text of subdivision effective until September 1, 2021

(5) "Liquor" means any alcoholic beverage containing alcohol in excess of four percent by weight, unless otherwise indicated. Proof that an alcoholic beverage is alcohol, spirits of wine, whiskey, liquor, wine, brandy, gin, rum, ale, malt liquor, tequila, mescal, habanero, or barreteago, is prima facie evidence that it is liquor.

Text of subdivision effective on September 1, 2021

(5) "Liquor" means any alcoholic beverage, other than a malt beverage, containing alcohol in excess of five percent by volume, unless otherwise indicated. Proof that an alcoholic beverage is alcohol, spirits of wine, whiskey, liquor, wine, brandy, gin, rum, tequila, mescal, habanero, or barreteago, is prima facie evidence that it is liquor.

(6) "Person" means a natural person or association of natural persons, trustee, receiver, partnership, corporation, organization, or the manager, agent, servant, or employee of any of them.

Text of subdivision effective until September 1, 2021

(7) "Wine and vinous liquor" means the product obtained from the alcoholic fermentation of juice of sound ripe grapes, fruits, berries, or honey, and includes wine coolers.

Text of subdivision effective on September 1, 2021

(7) "Wine and vinous liquor" means the product obtained from the alcoholic fermentation of juice of sound ripe grapes, fruits, berries, or honey, and includes wine coolers and saké.

(8) "Hotel" means the premises of an establishment:

(A) where, in consideration of payment, travelers are furnished food and lodging;

(B) in which are located:

(i) at least 10 adequately furnished completely separate rooms with adequate facilities so comfortably disposed that

persons usually apply for and receive overnight accommodations in the establishment, either in the course of usual and regular travel or as a residence; or

(ii) at least five rooms described by Subparagraph (i) if the building being used as a hotel is a historic structure as defined by Section 442.001, Government Code; and

(C) which operates a regular dining room constantly frequented by customers each day.

(9) "Applicant" means a person who submits or files an original or renewal application with the commission for a license or permit.

(10) "Commission" means the Texas Alcoholic Beverage Commission.

(11) "Permittee" means a person who is the holder of a permit provided for in this code, or an agent, servant, or employee of that person.

Text of subdivision effective until September 1, 2021

(12) "Ale" or "malt liquor" means a malt beverage containing more than four percent of alcohol by weight.

Text of subdivision effective on September 1, 2021

(12) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(a)(3), eff. September 1, 2021.

Text of subdivision effective until September 1, 2021

(13) "Mixed beverage" means one or more servings of a beverage composed in whole or part of an alcoholic beverage in a sealed or unsealed container of any legal size for consumption on the premises where served or sold by the holder of a mixed beverage permit, the holder of a daily temporary mixed beverage permit, the holder of a caterer's permit, the holder of a mixed beverage late hours permit, the holder of a private club registration permit, or the holder of a private club late hours permit.

Text of subdivision effective on September 1, 2021

(13) "Mixed beverage" means one or more servings of a beverage composed in whole or part of an alcoholic beverage in a sealed or unsealed container of any legal size for consumption on the premises where served or sold by the holder of a mixed beverage permit, the holder of certain nonprofit entity temporary event permits, the holder of a private club registration permit, or the holder of certain retailer late hours certificates.

Text of subdivision effective until September 1, 2021

(14) "Barrel" means, as a standard of measure, a quantity of beer equal to 31 standard gallons.

Text of subdivision effective on September 1, 2021

(14) "Barrel" means, as a standard of measure, a quantity of malt beverages equal to 31 standard gallons.

Text of subdivision effective until September 1, 2021

(15) "Beer" means a malt beverage containing one-half of one percent or more of alcohol by volume and not more than four percent of alcohol by weight.

Text of subdivision effective on September 1, 2021

(15) "Malt beverage" means a fermented beverage of any name or description containing one-half of one percent or more of alcohol by volume, brewed or produced from malt, in whole or in part, or from any malt substitute.

(16) "Licensee" means a person who is the holder of a license provided in this code, or any agent, servant, or employee of that person.

Text of subdivision effective until September 1, 2021

(17) "Manufacturer" means a person engaged in the manufacture or brewing of beer, whether located inside or outside the state.

Text of subdivision effective on September 1, 2021

(17) "Brewer" means a person engaged in the brewing of malt beverages, whether located inside or outside the state.

Text of subdivision effective until September 1, 2021

(18) "Original package," as applied to beer, means a container holding beer in bulk, or any box, crate, carton, or other device used in packing beer that is contained in bottles or other containers.

Text of subdivision effective on September 1, 2021

(18) "Original package," as applied to malt beverages, means a container holding malt beverages in bulk, or any box, crate, carton, or other device used in packing malt beverages that is contained in bottles or other containers.

(19) "Premises" has the meaning given it in Section 11.49 of this code.

(20) "Citizen of Texas" and "citizen of this state" mean a

person who is a citizen of both the United States and Texas.

(21) "Minibar" means a closed container in a hotel guestroom with access to the interior of the container restricted by a locking device which requires the use of a key, magnetic card, or similar device.

(22) "Minibar key" means the key, magnetic card, or similar device which permits access to the interior of a minibar.

(23) "Guestroom" means a sleeping room, including any adjacent private living area, in a hotel which is rented to guests for their use as an overnight accommodation.

(24) "Wine cooler" means an alcoholic beverage consisting of vinous liquor plus plain, sparkling, or carbonated water and which may also contain one or more natural or artificial blending or flavoring ingredients. A wine cooler may have an alcohol content as low as one-half of one percent by volume.

(25) "Executive management" includes the administrator, the assistant administrator, individuals who report directly to the administrator, and the head of each division of the commission.

(26) "Alternating brewery proprietorship" means an arrangement in which two or more parties take turns using the physical premises of a brewery as permitted under this code and federal law.

Text of subdivision effective until September 1, 2021

(27) "Contract brewing arrangement" means an arrangement in which two breweries, each of which has a separate facility, contract for one brewery to manufacture malt beverages on behalf of the other brewery due to the limited capacity or other reasonable business necessity of one party to the arrangement.

Text of subdivision effective on September 1, 2021

(27) "Contract brewing arrangement" means an arrangement in which two breweries, each of which has a separate facility, contract for one brewery to brew malt beverages on behalf of the other brewery due to the limited capacity or other reasonable business necessity of one party to the arrangement.

(28) "Criminal negligence" has the meaning assigned by Section 6.03, Penal Code.

Acts 1977, 65th Leg., p. 393, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1989, 71st Leg., ch. 532, Sec. 1, eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 692, Sec. 1, eff. June 14, 1989; Acts

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

Acts 2005, 79th Leg., Ch. 1182 (S.B. 1255), Sec. 1, eff. June 18, 2005.

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

Acts 2007, 80th Leg., R.S., Ch. 420 (S.B. 1257), Sec. 1, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1074 (H.B. 3307), Sec. 1, eff. September 1, 2013.

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

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(1), eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 2, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 3, eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(a)(3), eff. September 1, 2021.

Sec. 1.05. GENERAL PENALTY. (a) A person who violates a provision of this code for which a specific penalty is not provided is guilty of a misdemeanor and on conviction is punishable by a fine of not less than $100 nor more than $1,000 or by confinement in the county jail for not more than one year or by both.

(b) The term "specific penalty," as used in this section, means a penalty which might be imposed as a result of a criminal prosecution.

Acts 1977, 65th Leg., p. 395, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 1.06. CODE EXCLUSIVELY GOVERNS. Unless otherwise specifically provided by the terms of this code, the manufacture, sale, distribution, transportation, and possession of alcoholic beverages shall be governed exclusively by the provisions of this code.

Acts 1977, 65th Leg., p. 395, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 1.07. RESIDENT ALIENS. (a) For purposes of any provision of this code that requires an applicant for a license or permit to be a United States citizen or Texas citizen, regardless of whether it applies to an individual, a percentage of stockholders of a corporation, or members of a partnership, firm, or association, an individual who is not a United States citizen but who legally resides in the state is treated as a United States citizen and a citizen of Texas.

(b) If it is required that an individual have resided in the state for a specified period of time, an alien legally residing in the state satisfies the requirement if he has legally resided in the state for the prescribed period of time. If an alien becomes a United States citizen while residing in Texas, any continuous period of time he legally resided in the state immediately before becoming a citizen is included in computing his period of continuous residence in the state.

Added by Acts 1979, 66th Leg., p. 1971, ch. 777, Sec. 18, eff. Aug. 27, 1979.

Text of section effective on September 1, 2021

Sec. 1.08. PREVENTION OF HUMAN TRAFFICKING. It is the intent of the legislature to prevent human trafficking at all permitted and licensed premises, and all provisions of this code shall be liberally construed to carry out this intent, and it shall be a duty and priority of the commission to adhere to a zero tolerance policy of preventing human trafficking and related practices.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 4, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 1.09. REFERENCES TO CERTAIN TERMS. A reference in this code to:

(1) "Ale," "beer," or "malt liquor" means a malt beverage.

(2) "Brewer's permit" or "manufacturer's license" means a

brewer's license.

(3) "Nonresident brewer's permit" or "nonresident manufacturer's license" means a nonresident brewer's license.

(4) "Wine and beer retailer's off-premise permit" means a wine and malt beverage retailer's off-premise permit.

(5) "Wine and beer retailer's permit" means a wine and malt beverage retailer's permit.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 4, eff. September 1, 2021.

CHAPTER 2. CIVIL LIABILITIES FOR SERVING BEVERAGES

Sec. 2.01. DEFINITIONS. In this chapter:

(1) "Provider" means a person who sells or serves an alcoholic beverage under authority of a license or permit issued under the terms of this code or who otherwise sells an alcoholic beverage to an individual.

(2) "Provision" includes, but is not limited to, the sale or service of an alcoholic beverage.

Added by Acts 1987, 70th Leg., ch. 303, Sec. 3, eff. June 11, 1987.

Sec. 2.02. CAUSES OF ACTION. (a) This chapter does not affect the right of any person to bring a common law cause of action against any individual whose consumption of an alcoholic beverage allegedly resulted in causing the person bringing the suit to suffer personal injury or property damage.

(b) Providing, selling, or serving an alcoholic beverage may be made the basis of a statutory cause of action under this chapter and may be made the basis of a revocation proceeding under Section 6.01(b) of this code upon proof that:

(1) at the time the provision occurred it was apparent to the provider that the individual being sold, served, or provided with an alcoholic beverage was obviously intoxicated to the extent that he presented a clear danger to himself and others; and

(2) the intoxication of the recipient of the alcoholic beverage was a proximate cause of the damages suffered.

(c) An adult 21 years of age or older is liable for damages proximately caused by the intoxication of a minor under the age of 18

if:

(1) the adult is not:

(A) the minor's parent, guardian, or spouse; or

(B) an adult in whose custody the minor has been committed by a court; and

(2) the adult knowingly:

(A) served or provided to the minor any of the alcoholic beverages that contributed to the minor's intoxication; or

(B) allowed the minor to be served or provided any of the alcoholic beverages that contributed to the minor's intoxication on the premises owned or leased by the adult.

Added by Acts 1987, 70th Leg., ch. 303, Sec. 3, eff. June 11, 1987.
Amended by:
Acts 2005, 79th Leg., Ch. 643 (H.B. 2868), Sec. 1, eff. September 1, 2005.

Sec. 2.03. EXCLUSIVITY OF STATUTORY REMEDY. (a) The liability of providers under this chapter for the actions of their employees, customers, members, or guests who are or become intoxicated is in lieu of common law or other statutory law warranties and duties of providers of alcoholic beverages.

(b) This chapter does not impose obligations on a provider of alcoholic beverages other than those expressly stated in this chapter.

(c) This chapter provides the exclusive cause of action for providing an alcoholic beverage to a person 18 years of age or older.

Added by Acts 1987, 70th Leg., ch. 303, Sec. 3, eff. June 11, 1987.
Amended by Acts 2003, 78th Leg., ch. 456, Sec. 1, eff. Sept. 1, 2003.

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 Commission on Human Rights Act (Article 5221k, Vernon's Texas Civil Statutes);

(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.

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.

Text of section effective until September 1, 2021

Sec. 5.40. REGULATION OF BEER 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 beer 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.

Text of section effective on September 1, 2021

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.

Text of section effective until September 1, 2021

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 incidental to the issuance of licenses and permits under Title 3 of this code.

(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 surcharges on all applicants for an original or renewal certificate, permit, or license issued by the commission in addition to any fee set by this code and collect the surcharges at the time of application. In assessing a surcharge, the commission may not overly penalize any segment of the alcoholic beverage industry or impose an undue

hardship on small businesses.

(c) Insofar as they relate to the levying and collection of a local fee, Sections 11.38 and 61.36 of this code do not apply to fees set by rule of the commission.

(d) Revenues and surcharges 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.

Text of section effective on September 1, 2021

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.

Text of section effective until September 1, 2021

Sec. 5.51. BOOKKEEPING RECORDS. A permittee who holds a permit issued under Chapters 28 through 33 of this code 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.

Text of section effective on 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.

Text of subsection effective until September 1, 2021

(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, beer, and wine segments of the industry.

Text of subsection effective on September 1, 2021

(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.

CHAPTER 6. ACTIVITIES SUBJECT TO REGULATION

Sec. 6.01. RIGHTS AND PRIVILEGES; REVOCATION. (a) A person may manufacture, distill, brew, sell, import, export, transport, distribute, warehouse, store, possess, possess for the purpose of sale, bottle, rectify, blend, treat, fortify, mix, or process alcoholic beverages or possess equipment or material designed for or capable of use for manufacturing alcoholic beverages, if the right or privilege of doing so is granted by this code and the person has first obtained a license or permit of the proper type as required by this code.

(b) A license or permit issued under this code is a purely personal privilege and is subject to revocation or suspension if the holder is found to have violated a provision of this code or a rule of the commission.

Added by Acts 1987, 70th Leg., ch. 303, Sec. 1, eff. June 11, 1987. Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 15, eff. Sept. 1, 1993.

Sec. 6.02. COORDINATION OF EXPIRATION DATES. (a) The commission may authorize a licensee or permittee to change the expiration date of a license or permit held by the licensee or permittee to any date that is agreeable to the commission, consistent with a reasonable annual distribution of renewal application review work of the commission, and to the licensee or permittee.

(b) The fee for an application for a change in expiration date is $25 per license or permit affected.

(c) The commission may not abate or refund a license or permit fee because of a change in the expiration date made under this section but may authorize a license or permit period of less than one year for the period during which the expiration date is changed. The commission may not authorize a license or permit period of greater than two years.

Added by Acts 1989, 71st Leg., 1st C.S., ch. 36, Sec. 5, eff. Oct. 18, 1989.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 986 (S.B. 1217), Sec. 2, eff. September 1, 2007.

Sec. 6.03. CITIZENSHIP REQUIREMENTS. (a) It is the public policy of this state and a purpose of this section to require that, except as provided in Subsection (k) of this section or otherwise in this code, a permit or license may not be issued to a person who was not a citizen of this state for a one-year period preceding the date of the filing of the person's application for a license or permit. In that regard, the legislature makes the findings in Subsections (b) through (j) of this section.

(b) Between 1920 and 1933, the distribution and consumption of alcoholic beverages was prohibited in the United States. While the idealistic motives behind Prohibition were noble, a law enforcement nightmare ensued. Otherwise law-abiding citizens routinely violated the law by buying and consuming alcoholic beverages. The demand for the illegal products created an opportunity for criminal elements to develop a national network for the supply and distribution of alcoholic beverages to the populace. Massive criminal empires were built on illicit profits from these unlawful activities and organized crime openly flourished in Chicago, New York, New Orleans, and other cities.

(c) During Prohibition, the illegal enterprises used their national wholesale distribution networks to exert control over their customers. A common operating procedure was to sell alcoholic beverages to a speakeasy on liberal terms to ensnarl the owner in a web of debt and control with the aim of forcing the owner to engage in other illegal business enterprises on the premises including gambling, prostitution, and the distribution of illegal drugs.

(d) In 1935, when the sale of alcoholic beverages was legalized in this state following the adoption of the Twenty-first Amendment to the United States Constitution, the state was faced with building an entire framework for the distribution of alcoholic beverage products. An important concern was that since criminals owned and controlled the existing illegal alcoholic beverage distribution system, criminals would attempt to own and control the newly legalized

industry. In an effort to prevent this situation, comprehensive laws were adopted to ensure that an alcoholic beverage permit or license could be issued only to citizens of the state who had lived in this state for at least three years, thus, long enough to be known by their community and neighbors.

(e) Under the newly designed regulatory scheme, permits and licenses issued by the state did not grant the holder a right. Rather, the holder was granted a privilege that could be challenged at both the county and the state level if the character or qualifications of the applicant were suspect. Finally, strict cash and credit laws were adopted to prevent parties in the wholesale distribution system from controlling their retail customers through the leveraging of debt to accomplish other illicit gain.

(f) The alcoholic beverage laws adopted by the legislature in the 1930s to free the industry from the influence of organized crime have been successful in this state. The alcoholic beverage industry in this state is not dominated by organized crime. However, the legislature does find that organized crime continues to be a threat that should never be allowed to establish itself in the alcoholic beverage industry in this state.

Text of subsection effective until September 1, 2021

(g) To accommodate the interests of the consuming public, the expansion of popular nationwide businesses, and the increasing state interest in tourism, and at the same time to guard against the threats of organized crime, unfair competition, and decreased opportunities for small businesses, the legislature finds that there is no longer need for the three-year residency requirements with regard to those segments of the industry that sell alcoholic beverages to the ultimate consumer only. The legislature finds that it is desirable to retain a one-year residency requirement for businesses that sell to the consumer packaged liquor and fortified wine capable of being used to supply legal or illegal bars and clubs. The legislature also finds it reasonable, desirable, and in the best interests of the state to provide a one-year residency requirement for businesses engaged in the wholesale distribution of beer, malt liquor, or wine or in the manufacture and distribution of distilled spirits and fortified wines at both the wholesale and the retail levels where those beverages, in unopened containers, are sold to mixed beverage permittees and private club registration permittees as well as to the general public. Adequate protection is deemed to be

provided by controlling those sources of supply for distilled spirits and fortified wines.

Text of subsection effective on September 1, 2021

(g) To accommodate the interests of the consuming public, the expansion of popular nationwide businesses, and the increasing state interest in tourism, and at the same time to guard against the threats of organized crime, unfair competition, and decreased opportunities for small businesses, the legislature finds that there is no longer need for the three-year residency requirements with regard to those segments of the industry that sell alcoholic beverages to the ultimate consumer only. The legislature finds that it is desirable to retain a one-year residency requirement for businesses that sell to the consumer packaged liquor and fortified wine capable of being used to supply legal or illegal bars and clubs. The legislature also finds it reasonable, desirable, and in the best interests of the state to provide a one-year residency requirement for businesses engaged in the wholesale distribution of malt beverages or wine or in the manufacture and distribution of distilled spirits and fortified wines at both the wholesale and the retail levels where those beverages, in unopened containers, are sold to mixed beverage permittees and private club registration permittees as well as to the general public. Adequate protection is deemed to be provided by controlling those sources of supply for distilled spirits and fortified wines.

(h) It is also the public policy of this state and a purpose of this section to enforce strict cash and credit laws as a means of preventing those engaged in the distribution of alcoholic beverages from exerting undue influence over any level of the industry selling or serving alcoholic beverages to the ultimate consumer.

(i) It is also the public policy of this state and a purpose of this section to maintain and enforce the three-tier system (strict separation between the manufacturing, wholesaling, and retailing levels of the industry) and thereby to prevent the creation or maintenance of a "tied house" as described and prohibited in Section 102.01 of this code.

(j) The above-stated public policies, purposes of this section, and legislative findings are provided as guidelines for the construction of the following subsections of this section.

Text of subsection effective until September 1, 2021

(k) A requirement under this code that 51 percent or more of the stock of a corporation be owned by a person or persons who were citizens of this state for a one-year period preceding the date of the filing of an application for a license or permit does not apply to a corporation organized under the laws of this state that applies for a license or permit under Chapters 25-34, Chapter 44, Chapters 48-51, Chapters 69-72, or Chapter 74 of this code if:

(1) all of the officers and a majority of directors of the applicant corporation have resided within the state for a one-year period preceding the date of the application and each officer or director possesses the qualifications required of other applicants for permits and licenses;

(2) the applicant corporation and the applicant's shareholders have no direct or indirect ownership or other prohibited relationship with others engaged in the alcoholic beverage industry at different levels as provided by Chapter 102 of this code and other provisions of this code;

(3) the applicant corporation is not precluded by law, rule, charter, or corporate bylaw from disclosing the applicant's shareholders to the commission; and

(4) the applicant corporation maintains its books and records relating to its alcoholic beverage operations in the state at its registered office or at a location in the state approved in writing by the commission.

Text of subsection effective on September 1, 2021

(k) A requirement under this code that 51 percent or more of the stock of a corporation be owned by a person or persons who were citizens of this state for a one-year period preceding the date of the filing of an application for a license or permit does not apply to a corporation organized under the laws of this state that applies for a license or permit under Chapters 25, 26, 28, 30, 32, 48, 50, 69, 71, and 74 if:

(1) all of the officers and a majority of directors of the applicant corporation have resided within the state for a one-year period preceding the date of the application and each officer or director possesses the qualifications required of other applicants for permits and licenses;

(2) the applicant corporation and the applicant's shareholders have no direct or indirect ownership or other prohibited relationship with others engaged in the alcoholic beverage industry

at different levels as provided by Chapter 102 and other provisions of this code;

(3) the applicant corporation is not precluded by law, rule, charter, or corporate bylaw from disclosing the applicant's shareholders to the commission; and

(4) the applicant corporation maintains its books and records relating to its alcoholic beverage operations in the state at its registered office or at a location in the state approved in writing by the commission.

(l) Corporations subject to Subsection (k) of this section that have substantially similar ownership may merge or consolidate. A fee of $100 shall be paid to the commission for each licensed or permitted premises that is merged or consolidated into the surviving corporation. The surviving corporation succeeds to all privileges of the prior corporation that held the permits or licenses if the surviving corporation is qualified to hold the permits or licenses under this code. For the purposes of this subsection, corporations have substantially similar ownership if 90 percent or more of the corporations is owned by the same person or persons or by the same corporation or corporations or if the surviving corporation has maintained an ownership interest in the merged or consolidated corporations since the date the original permit or license was issued.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 16, eff. Sept. 1, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 21, eff. September 1, 2021.

Sec. 6.04. GRACE PERIOD ON RENEWAL OF LICENSES AND PERMITS. (a) Notwithstanding any other provision of this code, the holder of a license or permit issued under this code may renew the license or permit rather than reapply for an original license or permit if, not later than the 30th day after the date of the expiration of the license or permit, the holder files a renewal application and the required license or permit fee with the commission and pays a late fee as provided by rules of the commission.

(b) If an application is filed under Subsection (a), a violation of the law that occurs before the filing of a renewal

application may be the basis for an administrative action against the holder of the license or permit.

(c) The holder of a license or permit who does not renew the license or permit before its expiration date may not operate until the holder files an application under Subsection (a).

(d) The commission shall adopt rules necessary to implement this section.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 16, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 364, Sec. 1, eff. Sept. 1, 2001.

Sec. 6.05. CORPORATE LIABILITY. A corporation with an ownership interest in a corporation holding a permit under Section 6.03(k) of this code and which shares space, employees, business facilities, or services is subject to liability under Chapter 2 of this code.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 17, eff. Sept. 1, 1993.

TITLE 3. LICENSES AND PERMITS
SUBTITLE A. PERMITS
CHAPTER 11. PROVISIONS GENERALLY APPLICABLE TO PERMITS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 11.01. PERMIT REQUIRED. (a) No person who has not first obtained a permit of the type required for the privilege exercised may, in a wet area, do any of the following:

(1) manufacture, distill, brew, sell, possess for the purpose of sale, import into this state, export from this state, transport, distribute, warehouse, or store liquor;

(2) solicit or take orders for liquor; or

(3) for the purpose of sale, bottle, rectify, blend, treat, fortify, mix, or process liquor.

(b) A person may manufacture, distill, brew, sell, import, export, transport, distribute, warehouse, store, possess, possess for the purpose of sale, bottle, rectify, blend, treat, fortify, mix, or process liquor, or possess equipment or material designed for or capable of use for manufacturing liquor, if the right or privilege of doing so is granted by this code.

(c) A right or privilege granted by this section as an

exception to prohibitions contained elsewhere in this code may be exercised only in the manner provided. An act done by a person which is not permitted by this code is unlawful.

Acts 1977, 65th Leg., p. 404, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.015. HEARING LOCATION. Notwithstanding any other provision of this code, a hearing related to the issuance, renewal, cancellation, or suspension of a permit under this subtitle may be conducted:

(1) in the county in which the premises is located;

(2) at the nearest permanent hearing office of the State Office of Administrative Hearings; or

(3) at any location agreed to by the parties.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 18, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1114, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 22, eff. December 31, 2020.

Sec. 11.02. SEPARATE PERMIT REQUIRED. A separate permit shall be obtained and a separate fee paid for each outlet of liquor in the state.

Acts 1977, 65th Leg., p. 404, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.03. NATURE OF PERMIT. A permit issued under this code is a purely personal privilege and is subject to revocation as provided in this code. It is not property, is not subject to execution, does not pass by descent or distribution, and except as otherwise provided in this code, ceases on the death of the holder.

Acts 1977, 65th Leg., p. 404, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.04. MUST DISPLAY PERMIT. All permits shall be

displayed in a conspicuous place at all times on the licensed premises.

Acts 1977, 65th Leg., p. 404, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.041. WARNING SIGN REQUIRED. (a) Each holder of a permit who is not otherwise required to display a sign under Section 411.204, Government Code, shall display in a prominent place on the permit holder's premises a sign giving notice that it is unlawful for a person to carry a weapon on the premises unless the weapon is a handgun the person is licensed to carry under Subchapter H, Chapter 411, Government Code.

(b) The sign must be at least 6 inches high and 14 inches wide, must appear in contrasting colors, and shall be displayed in a conspicuous manner clearly visible to the public. The commission or administrator may require the permit holder to also display the sign in a language other than English if it can be observed or determined that a substantial portion of the expected customers speak the other language as their familiar language.

Added by Acts 1997, 75th Leg., ch. 1261, Sec. 16, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.18, eff. Sept. 1, 1999.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1302 (H.B. 3142), Sec. 1, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 1, eff. January 1, 2016.

Sec. 11.042. HEALTH RISKS WARNING SIGN. (a) The commission by rule shall require the holder of a permit authorizing the sale of alcoholic beverages for on-premises consumption to display a warning sign on the door to each restroom on the permitted premises that informs the public of the risks of drinking alcohol during pregnancy.

(b) The commission's rules shall specify the language of the warning and the size and graphic design of the sign, including font size and type.

Added by Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. 904), Sec. 16, eff.

September 1, 2007.

Sec. 11.05. UNAUTHORIZED USE OF PERMIT. A permittee may not consent to or allow the use or display of the permittee's permit by a person other than the person to whom the permit was issued.

Acts 1977, 65th Leg., p. 404, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 424 (S.B. 367), Sec. 1, eff. September 1, 2015.

Sec. 11.06. PRIVILEGES LIMITED TO LICENSED PREMISES. No person may use a permit or exercise any privileges granted by the permit except at the place, address, premises, or location for which the permit is issued, except as otherwise provided by this code.

Acts 1977, 65th Leg., p. 405, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.07. DUPLICATE OR CORRECTED PERMIT. If a permit is lost, destroyed, or needs to be changed, the commission may issue a duplicate or corrected permit.

Acts 1977, 65th Leg., p. 405, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.08. CHANGE OF LOCATION. If a permittee desires to change the location of his place of business, he may file an application for a change of location with the commission. The application shall be on a form prescribed by the commission. The commission or administrator may deny the application on any ground for which an original application may be denied. The application is subject to protest and hearing in the same manner as an original application for a permit.

Acts 1977, 65th Leg., p. 405, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.09. EXPIRATION OR SUSPENSION OF PERMIT.

Text of subsection effective until September 1, 2021

(a) A permit issued under this code expires on the second anniversary of the date it is issued, except as provided by Subsections (d) and (e) or another provision of this code. Notwithstanding Section 5.50(b), the commission shall double the amount of fees and surcharges otherwise applicable under this code for a permit with a two-year term.

Text of subsection effective on September 1, 2021

(a) A permit issued under this code expires on the second anniversary of the date it is issued, except as provided by Subsections (d) and (e) or another provision of this code.

Text of subsection effective until September 1, 2021

(b) A secondary permit which requires the holder of the permit to first obtain another permit, including a late hours permit or temporary permit, expires on the same date the basic or primary permit expires. The commission may not prorate or refund any part of the fee for the secondary permit if the application of this section results in the expiration of the permit in less than two years.

Text of subsection effective on September 1, 2021

(b) A secondary permit which requires the holder of the permit to first obtain another permit, including a retailer late hours certificate, expires on the same date the basic or primary permit expires. The commission may not prorate or refund any part of the fee for the secondary permit if the application of this section results in the expiration of the permit in less than two years.

(c) An action by the commission resulting in the suspension of a basic or primary permit also acts to suspend any secondary permit held by the holder of the basic or primary permit.

(d) The commission by rule may require that the expiration date for an individual permit holder's permit is the first anniversary of the date on which the permit is issued due to the permit holder's violation history.

(e) The commission may issue a permit with an expiration date less than two years after the date the permit is issued in order to maintain a reasonable annual distribution of renewal application review work and permit fees. If the commission issues a permit with an expiration date less than two years after the date the permit is issued, the commission shall prorate the permit fee on a monthly

basis so that the permit holder pays only that portion of the permit fee that is allocable to the number of months during which the permit is valid.

Acts 1977, 65th Leg., p. 405, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1999, 76th Leg., ch. 517, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 986 (S.B. 1217), Sec. 3, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 23, eff. September 1, 2021.

Sec. 11.091. NOTIFICATION OF EXPIRED OR SUSPENDED PERMIT. (a) The commission shall verify that the holder of an expired or suspended retail permit is not operating in violation of this code. The verification, including any inspection of the premises by commission personnel, must occur within a reasonable time after the date the permit expires or is suspended.

(b) The commission shall promptly notify each wholesaler, as that term is ordinarily used and understood in Section 102.01, who regularly supplies retailers in the geographic area that the holder's retail permit has expired or has been suspended.

Added by Acts 1999, 76th Leg., ch. 517, Sec. 2, eff. Sept. 1, 1999.

Sec. 11.10. SUCCESSION ON DEATH, BANKRUPTCY, ETC. On the death of the permittee or of a person having an interest in the permit, or on bankruptcy, receivership, or partnership dissolution, the receiver or successor in interest may apply to the county judge of the county where the licensed premises are located for certification that he is the receiver or successor in interest. On certification, unless good cause for refusal is shown, the commission or administrator shall grant permission, by letter or otherwise, for the receiver or successor in interest to operate the business during the unexpired portion of the permit. The permit may not be renewed, but the receiver or successor in interest may apply for an original permit or license. A receiver or successor in interest operating for the unexpired portion of the permit is subject to the provisions of this code relating to suspension or cancellation of a permit.

Acts 1977, 65th Leg., p. 405, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.11. CONDUCT SURETY BOND. (a) Except as provided in Subsection (e) of this section, an applicant for a permit or a holder of a permit issued under:

(1) Chapter 25, 28, or 32 of this code shall file with the commission a surety bond in the amount of $5,000 conditioned on the applicant's or holder's conformance with alcoholic beverage law; or

(2) Chapter 22, 24, 25, 26, 28, or 32 and whose place of business is within 1,000 feet of the property line of a public school shall file with the commission a surety bond in the amount of $10,000 conditioned on the applicant's or holder's conformance with alcoholic beverage law.

(b) A surety bond required under this section shall contain the following statements on the face of the bond:

(1) that the holder of the permit will not violate a law of the state relating to alcoholic beverages or a rule of the commission; and

(2) that the holder of the permit agrees that the amount of the bond shall be paid to the state if the permit is revoked or on final adjudication that the holder violated a provision of this code, regardless of whether the actions of an employee of a holder are not attributable to the holder under Section 106.14.

(c) The commission shall adopt rules relating to the:

(1) form of the surety bond;

(2) qualifications for a surety;

(3) method for filing and obtaining approval of the bond by the commission; and

(4) release or discharge of the bond.

(d) A holder of a permit required to file a surety bond may furnish instead of all or part of the required bond amount:

(1) one or more certificates of deposit assigned to the state issued by a federally insured bank or savings institution authorized to do business in this state; or

(2) one or more letters of credit issued by a federally insured bank or savings institution authorized to do business in this state.

(e) A holder of a permit issued under this code who has held a permit for three years or more before the date the holder applied for

renewal of the permit is not required to furnish a surety bond if the holder:

(1) has not had a license or permit issued under this code revoked in the five years before the date the holder applied for renewal of the permit;

(2) is not the subject of a pending permit or license revocation proceeding; and

(3) has continuously operated on the permitted premises for three years or more before the date the holder applied for renewal of the permit.

(f) If a holder of a permit is exempt from furnishing a conduct surety bond under Subsection (e) of this section, the holder shall be exempt from furnishing the bond at another location where the holder applies for or holds a permit.

(g) Repealed by Acts 1995, 74th Leg., ch. 607, Sec. 3, eff. Sept. 1, 1995.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 19, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 607, Sec. 1, 3, eff. Sept. 1, 1995.

Sec. 11.12. ALTERING FORM OF BUSINESS ENTITY. (a) The holder of a permit issued under this chapter, including a food and beverage certificate, may alter the form of the business entity that holds the permit if the ownership of the newly created business entity is identical to the ownership of the former business entity.

(b) Before the 10th day preceding the date the holder of the permit converts to a different form of business, the holder of the permit shall:

(1) file notice with the commission on a form prescribed by the commission of the change in the form of the business entity; and

(2) pay a $100 fee for each permitted premises affected by the change in form of the business entity.

(c) After satisfying the requirements of Subsection (b) and establishing the newly created business entity, that entity may use the permit and exercise any privileges granted by the permit.

Added by Acts 1997, 75th Leg., ch. 961, Sec. 1, eff. Sept. 1, 1997.

Sec. 11.13. CERTAIN APPLICATIONS PROHIBITED.

Text of subsection effective until September 1, 2021

(a) This section applies only to a license or permit held in connection with an establishment located in a county with a population of 1.4 million or more for which a license or permit has been issued under Chapter 25 or 69 for the on-premises consumption of beer exclusively or beer and wine exclusively, other than a license or permit for an establishment holding a food and beverage certificate whose primary business being operated on the premises is food service.

Text of subsection effective on September 1, 2021

(a) This section applies only to a license or permit held in connection with an establishment located in a county with a population of 1.4 million or more for which a license or permit has been issued under Chapter 25 or 69 for the on-premises consumption of malt beverages exclusively or malt beverages and wine exclusively, other than a license or permit for an establishment holding a food and beverage certificate whose primary business being operated on the premises is food service.

(b) Notwithstanding any other provision of this code, a person who is within the fourth degree by consanguinity or affinity of the current licensee or permittee, as determined under Chapter 573, Government Code, may not apply for any license or permit under this code in connection with an establishment the license or permit of which is suspended under Section 11.61 or 61.71 or in connection with an establishment against whose current licensee or permittee a charge of a violation of this code is pending.

(c) Notwithstanding any other provision of this code, a person who is within the fourth degree by consanguinity or affinity of a licensee or permittee, as determined under Chapter 573, Government Code, whose license or permit was canceled under Section 11.61 or 61.71 may not, for a period of three years from the date of the cancellation, apply for a license or permit in connection with an establishment at the same location as the establishment whose license or permit was canceled.

(d) In this section, "person" includes each member of a partnership or association and, with respect to a corporation, each officer and the owner or owners of a majority of the corporate stock.

Added by Acts 2005, 79th Leg., Ch. 452 (S.B. 1850), Sec. 1, eff.

September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 716 (H.B. 2348), Sec. 1, eff. June 15, 2007.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 24, eff. September 1, 2021.

SUBCHAPTER B. APPLICATION FOR AND ISSUANCE OF PERMITS

Sec. 11.31. APPLICATION FOR PERMIT. All permits shall be applied for and obtained from the commission.

Acts 1977, 65th Leg., p. 405, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 25, eff. September 1, 2019.

Sec. 11.32. RENEWAL APPLICATION. Renewal applications shall be made under oath and shall contain all information required by the commission or administrator showing that the applicant is qualified to hold the permit. The application shall be accompanied by the required bond and state fee. The commission or administrator may issue a renewal permit if it is found that the applicant is qualified.

Acts 1977, 65th Leg., p. 405, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.321. ADMINISTRATIVE PENALTY IN CERTAIN COUNTIES. (a) This section applies only to an original or renewal application made in connection with an establishment located in a county with a population of 1.4 million or more.

Text of subsection effective until September 1, 2021

(b) In addition to any other applicable civil or criminal penalty, the commission may impose an administrative penalty not to exceed $4,000 on a licensee or permittee who makes a false or misleading statement in an original or renewal application, either in the formal application itself or in any written instrument relating to the application submitted to the commission or its officers or

employees, in connection with an establishment that is licensed or permitted under Chapter 25 or 69 for the on-premises consumption of beer exclusively or beer and wine exclusively, other than an establishment holding a food and beverage certificate whose primary business being operated on the premises is food service.

Text of subsection effective on September 1, 2021

(b) In addition to any other applicable civil or criminal penalty, the commission may impose an administrative penalty not to exceed $4,000 on a licensee or permittee who makes a false or misleading statement in an original or renewal application, either in the formal application itself or in any written instrument relating to the application submitted to the commission or its officers or employees, in connection with an establishment that is licensed or permitted under Chapter 25 or 69 for the on-premises consumption of malt beverages exclusively or malt beverages and wine exclusively, other than an establishment holding a food and beverage certificate whose primary business being operated on the premises is food service.

Added by Acts 2005, 79th Leg., Ch. 452 (S.B. 1850), Sec. 2, eff. September 1, 2005.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 26, eff. September 1, 2021.

Sec. 11.33. APPLICATION FORMS. All permit application forms shall be provided by the commission.

Acts 1977, 65th Leg., p. 406, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 11.34. CONSOLIDATED APPLICATION. (a) An applicant for a wholesaler's, class B wholesaler's, distiller's and rectifier's, brewer's, or winery permit may consolidate in a single application his application for that permit and his application for:

(1) private storage;
(2) storage in a public bonded warehouse;
(3) a private carrier's permit; and

(4) any other permit he is qualified to receive.

(b) An applicant who files a consolidated application must pay the fee prescribed in this code for each permit included in the application.

Acts 1977, 65th Leg., p. 406, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 2116, ch. 819, Sec. 2, eff. June 13, 1979; Acts 1983, 68th Leg., p. 1341, ch. 278, Sec. 1, eff. Sept. 1, 1983.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 27, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 11.34. CONSOLIDATED APPLICATION. (a) An applicant for a wholesaler's, class B wholesaler's, distiller's and rectifier's, or winery permit may consolidate in a single application the application for that permit and an application for any other permit the applicant is qualified to receive.

(b) An applicant who files a consolidated application must pay the fee required by commission rule for each permit included in the application.

Acts 1977, 65th Leg., p. 406, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 2116, ch. 819, Sec. 2, eff. June 13, 1979; Acts 1983, 68th Leg., p. 1341, ch. 278, Sec. 1, eff. Sept. 1, 1983.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 27, eff. September 1, 2021.

Sec. 11.35. PAYMENT OF FEE. (a) Each permit application must be accompanied by a cashier's check, a teller's check, a check drawn on the account of a corporation applying for a permit, or a money order or payment by credit card, charge card, or other electronic form of payment approved by commission rule for the amount of the state fee, payable to the order of the comptroller.

(b) The commission may set a processing fee in an amount that

is reasonably related to the expense incurred by the commission in processing the electronic payment.

Acts 1977, 65th Leg., p. 406, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 1.02, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1036, Sec. 1, eff. Sept. 1, 2001.

Sec. 11.36. REFUND OF FEE. The commission may not refund a permit fee except when the permittee is prevented from continuing in business because of a local option election or when an application for a permit is rejected by the commission or administrator. As much of the proceeds from permit fees as is necessary may be appropriated for that purpose.

Acts 1977, 65th Leg., p. 406, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.37. CERTIFICATION OF WET OR DRY STATUS. (a) Not later than the 30th day after the date a prospective applicant for a permit issued by the commission requests certification, the county clerk of the county in which the request is made shall certify whether the location or address given in the request is in a wet area and whether the sale of alcoholic beverages for which the permit is sought is prohibited by any valid order of the commissioners court.

(b) Not later than the 30th day after the date a prospective applicant for a permit issued by the commission requests certification, the city secretary or clerk of the city in which the request is made shall certify whether the location or address given in the request is in a wet area and whether the sale of alcoholic beverages for which the permit is sought is prohibited by charter or ordinance.

(c) Once a permit is issued, the certification that the location or address is in a wet area may not be changed until after a subsequent local option election to prohibit the sale of alcoholic beverages.

(d) Notwithstanding any other provision of this code, if the county clerk, city secretary, or city clerk certifies that the location or address given in the request is not in a wet area or refuses to issue the certification required by this section, the prospective applicant is entitled to a hearing before the county

judge to contest the certification or refusal to certify. The prospective applicant must submit a written request to the county judge for a hearing under this subsection. The county judge shall conduct a hearing required by this subsection not later than the 30th day after the date the county judge receives the written request.

Acts 1977, 65th Leg., p. 406, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 2003, 78th Leg., ch. 1047, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 297 (H.B. 1959), Sec. 1, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 241 (H.B. 1443), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 28, eff. September 1, 2019.

Sec. 11.38. LOCAL FEE AUTHORIZED.

Text of subsection effective until September 1, 2021

(a) The governing body of a city or town may levy and collect a fee not to exceed one-half the state fee for each permit issued for premises located within the city or town. The commissioners court of a county may levy and collect a fee equal to one-half of the state fee for each permit issued for premises located within the county. Those authorities may not levy or collect any other fee or tax from the permittee except general ad valorem taxes, the hotel occupancy tax levied under Chapter 351, Tax Code, and the local sales and use tax levied under Chapter 321, Tax Code.

Text of subsection effective on September 1, 2021

(a) The governing body of a city or town may levy and collect a fee for each permit issued for premises located within the city or town. The commissioners court of a county may levy and collect a fee for each permit issued for premises located within the county. The fees authorized by this subsection may not exceed one-half the statutory fee provided in this code as of August 31, 2021, for the permit issued. Those authorities may not levy or collect any other fee or tax from the permittee except general ad valorem taxes, the hotel occupancy tax levied under Chapter 351, Tax Code, and the local

sales and use tax levied under Chapter 321, Tax Code.

(b) The commission or administrator may cancel or suspend a permit if it finds that the permittee has not paid a fee levied under this section within 180 days after the date the fee was levied. A permittee who sells an alcoholic beverage without first having paid a fee levied under this section commits a misdemeanor punishable by a fine of not less than $10 nor more than $200.

(b-1) A city, town, or county may enter into a contract with a private attorney or a public or private vendor for the collection of an unpaid permit fee levied under this section that is more than 60 days past due. A private attorney or a public or private vendor collecting a fee under this subsection may assess a collection charge to a permit holder for late payment or nonpayment of a fee levied under this section.

(b-2) A city, town, or county may enter into an interlocal agreement with another entity authorized to levy a fee under this section for the collection of a permit fee that is more than 60 days past due on behalf of the other entity and shall remit the appropriate fees collected to the other entity. The amount collected through an interlocal agreement under this subsection may not exceed the amount of the fee levied by the city, town, or county under this section and any collection charge assessed by a private attorney or a public or private vendor under Subsection (b-1).

(c) Nothing in this code shall be construed as a grant to any political subdivision of the authority to regulate permittees except by collecting the fees authorized in this section and exercising those powers granted to political subdivisions by other provisions of this code.

Text of subsection effective until September 1, 2021

(d) The following are exempt from the fee authorized in this section:

(1) agent's, airline beverage, passenger train beverage, passenger bus beverage, industrial, carrier's, private carrier's, private club registration, local cartage, storage, and temporary wine and beer retailer's permits;

(2) a wine and beer retailer's permit issued for a dining, buffet, or club car; and

(3) a mixed beverage permit during the three-year period following the issuance of the permit.

Text of subsection effective on September 1, 2021

(d) The following are exempt from the fee authorized in this section:

(1) passenger transportation, carrier, private club registration, and local cartage permits; and

(2) a mixed beverage permit during the three-year period following the issuance of the permit.

(e) The commission or administrator may cancel or the commission may deny a permit for the retail sale or service of alcoholic beverages, including a permit held by the holder of a food and beverage certificate, if it finds that the permit holder or applicant has not paid delinquent ad valorem taxes due on that permitted premises or due from a business operated on that premises to any taxing authority in the county of the premises. For purposes of this subsection, a permit holder or applicant is presumed delinquent in the payment of taxes due if the permit holder or applicant:

(1) is placed on a delinquent tax roll prepared under Section 33.03, Tax Code;

(2) has received a notice of delinquency under Section 33.04, Tax Code; and

(3) has not made a payment required under Section 42.08, Tax Code.

(f) In this section, "applicant" has the meaning assigned by Section 11.45.

Acts 1977, 65th Leg., p. 406, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2117, ch. 819, Sec. 3, eff. June 13, 1979; Acts 1985, 69th Leg., ch. 540, Sec. 3, eff. June 12, 1985; Acts 1989, 71st Leg., ch. 2, Sec. 14.27(a)(1), 14.29(1), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 289, Sec. 1, eff. Sept. 1, 2001. Amended by:

Acts 2017, 85th Leg., R.S., Ch. 283 (H.B. 3101), Sec. 1, eff. May 29, 2017.

Acts 2019, 86th Leg., R.S., Ch. 909 (H.B. 3754), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 29, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 30, eff. December 31, 2020.

Sec. 11.39. APPLICANT TO PUBLISH NOTICE.

Text of subsection effective until September 1, 2021

(a) Every applicant for a brewer's, distiller's and rectifier's, mixed beverage, private club registration, winery, wholesaler's, class B wholesaler's, wine bottler's, or package store permit shall give notice of the application by publication at his own expense in two consecutive issues of a newspaper of general circulation published in the city or town in which his place of business is located. If no newspaper is published in the city or town, the notice shall be published in a newspaper of general circulation published in the county where the applicant's business is located. If no newspaper is published in the county, the notice shall be published in a qualified newspaper published in the closest neighboring county and circulated in the county of the applicant's residence.

Text of subsection effective on September 1, 2021

(a) Every applicant for a distiller's and rectifier's, mixed beverage, private club registration, winery, wholesaler's, class B wholesaler's, or package store permit shall give notice of the application by publication at the applicant's own expense in two consecutive issues of a newspaper of general circulation published in the city or town in which the applicant's place of business is located. If no newspaper is published in the city or town, the notice shall be published in a newspaper of general circulation published in the county where the applicant's business is located. If no newspaper is published in the county, the notice shall be published in a qualified newspaper published in the closest neighboring county and circulated in the county of the applicant's residence.

(b) The notice shall be printed in 10-point boldface type and shall include:

(1) the type of permit to be applied for;

(2) the exact location of the place of business for which the permit is sought;

(3) the names of each owner of the business and, if the business is operated under an assumed name, the trade name together with the names of all owners; and

(4) if the applicant is a corporation, the names and titles of all officers.

(c) An applicant for a renewal permit is not required to publish notice.

Text of subsection effective until September 1, 2021

(d) This section does not apply to an applicant for a daily temporary mixed beverage permit or a caterer's permit.

Text of subsection effective on September 1, 2021

(d) This section does not apply to:

(1) an applicant for a nonprofit entity temporary event permit; or

(2) commission authorization required to sell alcoholic beverages under Section 28.19.

Acts 1977, 65th Leg., p. 407, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2117, ch. 819, Sec. 4, eff. June 13, 1979; Acts 1981, 67th Leg., p. 1849, ch. 432, Sec. 1, eff. June 11, 1981; Acts 1983, 68th Leg., p. 1342, ch. 278, Sec. 2, eff. Sept. 1, 1983; Acts 2001, 77th Leg., ch. 191, Sec. 1, eff. Sept. 1, 2001. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 31, eff. September 1, 2021.

Sec. 11.391. NOTICE BY SIGN. (a) An applicant for a permit issued under this code for a location not previously licensed for the on-premises consumption of alcoholic beverages must, not later than the 60th day before the date the permit is issued, prominently post an outdoor sign at the location stating that alcoholic beverages are intended to be served on the premises, the type of permit, and the name and business address of the applicant.

(b) The sign must be at least 24 by 36 inches in size and must be written in lettering at least two inches in size. The administrator may require the sign to be both in English and a language other than English if it is likely that a substantial number of the residents in the area speak a language other than English as their familiar language. The commission shall provide such sign and may charge a fee therefor.

Text of subsection effective until September 1, 2021

(c) This section does not apply to an applicant for a permit issued under Chapter 16, 19, 20, 21, 22, 23, 24, or 52.

Text of subsection effective on September 1, 2021

(c) This section does not apply to an applicant for a permit issued under Chapter 16, 19, 20, 22, 23, or 24.

Added by Acts 1985, 69th Leg., ch. 169, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1995, 74th Leg., ch. 1028, Sec. 1, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1109, Sec. 1, eff. Sept. 1, 1999. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 159 (H.B. 1953), Sec. 1, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 32, eff. September 1, 2021.

Sec. 11.392. NOTICE OF PRIVATE CLUB APPLICATION OR RENEWAL.

Text of subsection effective until September 1, 2021

(a) The commission shall give notice of an application for a permit or renewal of a permit issued under Chapter 32 or 33 to:

(1) the state senator and the state representative who represent the district in which the premises are located;

(2) the municipal governing body, if the premises are located in an incorporated area, and the commissioners court of the county in which the premises are located; and

(3) the chief of police of the municipality, if the premises are located in an incorporated area, and the sheriff of the county in which the premises are located.

Text of subsection effective on September 1, 2021

(a) The commission shall give notice of an application for a permit or renewal of a permit issued under Chapter 32, an application for a permit issued under Section 30.09, or an application for a certificate or renewal of a certificate issued to the holder of a private club registration permit under Chapter 29 to:

(1) the state senator and the state representative who represent the district in which the premises are located;

(2) the municipal governing body, if the premises are located in an incorporated area, and the commissioners court of the

county in which the premises are located; and

(3) the chief of police of the municipality, if the premises are located in an incorporated area, and the sheriff of the county in which the premises are located.

(b) Notwithstanding Section 11.39(c), the applicant for a private club permit renewal shall publish notice of the renewal application in a newspaper of general circulation in accordance with the requirements of Sections 11.39(a) and (b).

(c) Notices provided under this section must be given not later than:

(1) the fifth day after the date the application is filed; or

(2) the 31st day before the expiration date of a permit in the case of renewal.

(d) This section does not apply to a fraternal or veterans organization or the holder of a food and beverage certificate.

Added by Acts 1995, 74th Leg., ch. 1060, Sec. 2, eff. Aug. 28, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 33, eff. September 1, 2021.

Sec. 11.393. NOTICE BY MAIL. (a) Except as provided by Subsection (b), a person who submits an original application for a private club registration permit or a permit authorizing the retail sale of alcoholic beverages for on-premises consumption shall give written notice of the application to each residential address and established neighborhood association located within 300 feet of any property line of the premises for which the permit is sought.

(b) The notice required by Subsection (a) does not apply to an application that contains an application for a food and beverage certificate.

(c) The notice required by this section must be:

(1) delivered by mail at the applicant's expense;

(2) provided in English and a language other than English if it is likely that a substantial number of residents in the area speak a language other than English as their familiar language; and

(3) provided not earlier than the 14th day and not later than the 7th day before the date the application is filed.

(d) The applicant shall submit with an application for a permit described by Subsection (a) a list of each residential address provided notice under this section.

(e) The notice must be provided on a form prescribed by the commission and must contain:

(1) the type of permit and type of business for which the applicant has applied;

(2) the exact location of the place of business for which the permit is sought;

(3) the name of each owner of the business or, if the business is operated under an assumed name, the trade name and the name of each owner;

(4) if the applicant is a corporation, the name and title of each officer; and

(5) a description of the procedure for protesting the application.

Added by Acts 2001, 77th Leg., ch. 868, Sec. 1, eff. Sept. 1, 2001.

Sec. 11.42. STATEMENT OF STOCK OWNERSHIP. The commission at any time may require an officer of a corporation holding a permit to file a sworn statement showing the actual owners of the stock of the corporation, the amount of stock owned by each, the officers of the corporation, and any information concerning the qualifications of the officers or stockholders.

Acts 1977, 65th Leg., p. 408, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 11.43. APPLICATION REVIEW PROCESS. (a) The commission has discretionary authority to issue an original or renewal permit or deny an application for an original or renewal permit under the provisions of this subchapter or any other applicable provision of this code.

(b) On receipt of an application for a permit under this code, the administrator shall evaluate the application. If a protest against the application has been filed, the administrator shall first evaluate the protest.

(c) If the administrator determines that no reasonable grounds exist for the protest, or if no protest has been filed, the administrator shall evaluate the permit application.

(d) If after evaluating the permit application under Subsection (c) the administrator finds that all facts stated in the application are true and no legal ground to deny the application exists, the administrator shall issue a permit if the commission has delegated authority to issue permits to the administrator. If the commission has not delegated authority to issue permits to the administrator, the administrator shall recommend to the commission that the application be approved and the commission may issue the permit. If the commission does not issue the permit, the administrator shall refer the application for a hearing as provided by Subsection (h).

(e) If after the evaluation of a permit application the administrator finds a legal ground to deny the permit application, the administrator shall recommend to the commission that the application be denied. If the administrator recommends denial of the application, the applicant may request a hearing as provided by Subsection (h).

(f) If the administrator finds that reasonable grounds exist for the protest, the administrator shall evaluate the application in light of the protest. If, but for the protest, the administrator would approve the application, the administrator shall refer the protested application for a hearing. In a hearing on a protested application, the State Office of Administrative Hearings may request any information from the commission the office determines relevant.

(g) If after evaluating the application with the protest the administrator finds a legal ground to deny the permit application, the administrator shall recommend to the commission that the application be denied. If the administrator recommends denial of the application, the applicant may request a hearing as provided by Subsection (h).

(h) A hearing under this section shall be conducted by the State Office of Administrative Hearings in a location authorized by Section 11.015. Chapter 2001, Government Code, applies to a hearing under this section. After a hearing the administrative law judge shall make findings of fact and conclusions of law and promptly issue to the commission a proposal for a decision on the application. Based on the findings of fact, conclusions of law, and proposal for a decision, the commission shall issue a final decision denying the

application or issuing the permit.

(i) If the commission denies a permit application, the applicant may, after exhausting all administrative remedies, appeal the commission's decision to a Travis County district court.

(j) The commission shall adopt rules to implement the application review and protest process including reasonable timelines, identifying the roles and responsibilities of all parties involved in the process and identifying potential avenues for mediation or informal dispute resolution.

Acts 1977, 65th Leg., p. 408, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 20, eff. Sept. 1, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 34(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 34(b), eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 11.43. APPLICATION REVIEW PROCESS. (a) The commission has discretionary authority to issue an original or renewal permit or deny an application for an original or renewal permit under the provisions of this subchapter or any other applicable provision of this code.

(b) On receipt of an application for a permit under this code, the administrator shall evaluate the application. If a protest against the application has been filed, the administrator shall first evaluate the protest.

(c) If the administrator determines that no reasonable grounds exist for the protest, or if no protest has been filed, the administrator shall evaluate the permit application.

(d) If after evaluating the permit application under Subsection (c) the administrator finds that all facts stated in the application are true and no legal ground to deny the application exists, the administrator shall issue a permit if the commission has delegated authority to issue permits to the administrator. If the commission has not delegated authority to issue permits to the administrator, the administrator shall recommend to the commission that the

application be approved and the commission may issue the permit. If the commission does not issue the permit, the administrator shall refer the application for a hearing as provided by Subsection (h).

(e) If after the evaluation of a permit application the administrator finds a legal ground to deny the permit application, the administrator shall recommend to the commission that the application be denied. If the administrator recommends denial of the application, the applicant may request a hearing as provided by Subsection (h).

(f) If the administrator finds that reasonable grounds exist for the protest, the administrator shall evaluate the application in light of the protest. If, but for the protest, the administrator would approve the application, the administrator shall refer the protested application for a hearing. In a hearing on a protested application, the State Office of Administrative Hearings may request any information from the commission the office determines relevant.

(g) If after evaluating the application with the protest the administrator finds a legal ground to deny the permit application, the administrator shall recommend to the commission that the application be denied. If the administrator recommends denial of the application, the applicant may request a hearing as provided by Subsection (h).

(h) A hearing under this section shall be conducted by the State Office of Administrative Hearings in a location authorized by Section 11.015. Chapter 2001, Government Code, applies to a hearing under this section. After a hearing the administrative law judge shall make findings of fact and conclusions of law and promptly issue to the commission a proposal for a decision on the application. Based on the findings of fact, conclusions of law, and proposal for a decision, the commission shall issue a final decision denying the application or issuing the permit.

(i) If the commission denies a permit application, the applicant may, after exhausting all administrative remedies, appeal the commission's decision to a Travis County district court.

(j) The commission shall adopt rules to implement the application review and protest process including reasonable timelines, identifying the roles and responsibilities of all parties involved in the process and identifying potential avenues for mediation or informal dispute resolution.

Acts 1977, 65th Leg., p. 408, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 20, eff. Sept. 1, 1993.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 34(a), eff. December 31, 2020.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 34(b), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 11.431. PROTEST BY MEMBER OF THE PUBLIC. (a) A member of the public may protest an application for:

(1) an original mixed beverage permit, private club registration permit, or wine and beer retailer's permit if a sexually oriented business is to be operated on the premises to be covered by the permit;

(2) any renewal of a mixed beverage permit, private club registration permit, or wine and beer retailer's permit if a sexually oriented business is to be operated on the premises to be covered by the permit and a petition is presented to the commission requesting a hearing which is signed by 50 percent of the residents who reside within 300 feet of any property line of the affected premises;

(3) a private club registration permit or a permit authorizing the retail sale of alcoholic beverages for on-premises consumption if the person resides within 300 feet of any property line of the premises for which the permit is sought; and

(4) a mixed beverage permit or a wine and beer retailer's permit in a municipality with a population of 1,500,000 or more if:

(A) any point of the property line of the premise is less than 300 feet from the nearest point on a property line of a residence, church, school, hospital, day-care facility, or social service facility, as measured in a straight line; and

(B) 75 percent or more of the permittee's actual or anticipated gross revenue is from the sale of alcoholic beverages.

(b) In addition to the situations described by Subsection (a), the commission by rule may authorize a member of the public to protest other permit applications the commission considers appropriate.

(c) A protest made under this section must include an

allegation of grounds on which the original or renewal application, as applicable, should be denied.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 34(a), eff. December 31, 2020.

Text of section effective on September 1, 2021

Sec. 11.431. PROTEST BY MEMBER OF THE PUBLIC. (a) A member of the public may protest an application for:

(1) an original mixed beverage permit, private club registration permit, or wine and malt beverage retailer's permit if a sexually oriented business is to be operated on the premises to be covered by the permit;

(2) any renewal of a mixed beverage permit, private club registration permit, or wine and malt beverage retailer's permit if a sexually oriented business is to be operated on the premises to be covered by the permit and a petition is presented to the commission requesting a hearing which is signed by 50 percent of the residents who reside within 300 feet of any property line of the affected premises;

(3) a private club registration permit or a permit authorizing the retail sale of alcoholic beverages for on-premises consumption if the person resides within 300 feet of any property line of the premises for which the permit is sought; and

(4) a mixed beverage permit or a wine and malt beverage retailer's permit in a municipality with a population of 1,500,000 or more if:

(A) any point of the property line of the premise is less than 300 feet from the nearest point on a property line of a residence, church, school, hospital, day-care facility, or social service facility, as measured in a straight line; and

(B) 75 percent or more of the permittee's actual or anticipated gross revenue is from the sale of alcoholic beverages.

(b) In addition to the situations described by Subsection (a), the commission by rule may authorize a member of the public to protest other permit applications the commission considers appropriate.

(c) A protest made under this section must include an allegation of grounds on which the original or renewal application,

as applicable, should be denied.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 34(b), eff. September 1, 2021.

Sec. 11.432. PROTEST BY GOVERNMENT OFFICIAL. (a) The following persons may protest an application for an alcoholic beverage permit:

(1) a state senator, state representative, county commissioner, or city council member who represents the area in which the premises sought to be permitted are located;

(2) the commissioners court of the county in which the premises sought to be permitted are located;

(3) the county judge of the county in which the premises sought to be permitted are located;

(4) the sheriff or county or district attorney of the county in which the premises sought to be permitted are located;

(5) the mayor of the city or town in which the premises sought to be permitted are located; and

(6) the chief of police, city marshal, or city attorney of the city or town in which the premises sought to be permitted are located.

(b) The commission may give due consideration to the recommendations of a person listed under Subsection (a) when evaluating an application for a permit under this code.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 34(a), eff. December 31, 2020.

Sec. 11.44. PREMISES INELIGIBLE FOR PERMIT OR LICENSE. (a) Except as provided by Subsection (c), if an order of suspension against a permit or license is pending or unexpired, or if the commission has initiated action to cancel or suspend a permit or license, no permit or license may be issued for or transferred to the same licensed premises.

(b) The commission shall deny an application for a permit or license for any location of an applicant who submitted a prior application that expired or was voluntarily surrendered before the hearing on the application was held on a protest involving

allegations of prostitution, a shooting, stabbing, or other violent act, or an offense involving drugs or trafficking of persons before the third anniversary of the date the prior application expired or was voluntarily surrendered.

(c) The commission may issue an original permit or license covering an otherwise permitted or licensed premises under conditions described by Subsection (a) if:

(1) the holder of the permit or license that is subject to the pending or unexpired suspension order or against which the cancellation or suspension action has been initiated has been evicted from the premises under a final, nonappealable court judgment; and

(2) all other conditions for the issuance of the new permit or license covering the premises are met by the applicant.

Acts 1977, 65th Leg., p. 408, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 717 (H.B. 2350), Sec. 1, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 515 (H.B. 2014), Sec. 1.01, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 419 (S.B. 409), Sec. 1, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 35, eff. December 31, 2020.

Sec. 11.45. "APPLICANT" DEFINED. The word "applicant," as used in Sections 11.46 through 11.48 of this code, also includes, as of the date of the application, each member of a partnership or association and, with respect to a corporation, each officer and the owner or owners of a majority of the corporate stock. This section shall not be construed as prohibiting anything permitted by Section 22.06, 24.05, or 102.05 of this code.

Acts 1977, 65th Leg., p. 408, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.46. GENERAL GROUNDS FOR DENIAL. (a) The commission may deny an application for an original or renewal permit if it has reasonable grounds to believe and finds that any of the following circumstances exists:

(1) the applicant has been convicted in a court of competent jurisdiction of the violation of any provision of this code during the two years immediately preceding the filing of the application;

(2) five years have not elapsed since the termination, by pardon or otherwise, of a sentence imposed on the applicant for the conviction of a felony;

(3) within the six-month period immediately preceding the application the applicant violated or caused to be violated a provision of this code or a rule or regulation of the commission which involves moral turpitude, as distinguished from a technical violation of this code or of the rule;

(4) the applicant failed to answer or falsely or incorrectly answered a question in an original or renewal application;

(5) the applicant is indebted to the state for any taxes, fees, or payment of penalty imposed by this code or by rule of the commission;

(6) the applicant is not of good moral character or the applicant's reputation for being a peaceable, law-abiding citizen in the community where the applicant resides is bad;

(7) the applicant is a minor;

(8) the place or manner in which the applicant may conduct the applicant's business warrants the denial of the application for a permit based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency;

(9) the applicant has developed an incapacity that prevents or could prevent the applicant from conducting the applicant's business with reasonable skill, competence, and safety to the public;

(10) the applicant will sell liquor unlawfully in a dry area or in a manner contrary to law or will knowingly permit an agent, servant, or employee to do so;

(11) the applicant is not a United States citizen or has not been a citizen of Texas for a period of one year immediately preceding the filing of the applicant's application, unless the applicant was issued a permit or renewal permit on or before September 1, 1948, and has at some time been a United States citizen;

(12) the applicant does not provide an adequate building available at the address for which the permit is sought before conducting any activity authorized by the permit;

(13) the applicant is residentially domiciled with a person whose permit or license has been cancelled for cause within the 12 months immediately preceding the date of the applicant's present application;

(14) the applicant has failed or refused to furnish a true copy of the applicant's application to the commission's district office in the district in which the premises for which the permit is sought are located; or

(15) during the six months immediately preceding the filing of the application the premises for which the permit is sought have been operated, used, or frequented for a purpose or in a manner that is lewd, immoral, or offensive to public decency.

(b) The commission shall deny an application for an original permit authorizing the retail sale of alcoholic beverages unless the applicant for the permit files with the application a certificate issued by the comptroller of public accounts stating that the applicant holds, or has applied for and satisfies all legal requirements for the issuance of, a sales tax permit, if required, for the place of business for which the alcoholic beverage permit is sought.

(c) The commission shall deny for a period of one year after cancellation an application for a mixed beverage permit or private club registration permit for a premises where a license or permit has been canceled during the preceding 12 months as a result of a shooting, stabbing, or other violent act, or as a result of an offense involving drugs, prostitution, or trafficking of persons.

(d) The commission shall deny an application for an original permit of a person convicted of an offense under Section 101.76 for a period of five years from the date of the conviction.

Acts 1977, 65th Leg., p. 408, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1965, ch. 777, Sec. 3, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 252, ch. 107, Sec. 1, eff. Sept. 1, 1981; Acts 1985, 69th Leg., ch. 285, Sec. 2, eff. Sept. 1, 1986; Acts 1985, 69th Leg., ch. 462, Sec. 3, eff. Sept. 1, 1986; Acts 1985, 69th Leg., ch. 690, Sec. 1, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 934, Sec. 21 eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 625, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 515 (H.B. 2014), Sec. 1.02, eff.

September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 424 (S.B. 367), Sec. 2, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 36(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 36(b), eff. December 31, 2020.

Text of section effective until September 1, 2021

Sec. 11.47. DENIAL OF PERMIT: INTEREST IN BEER ESTABLISHMENT. The commission may deny an application for an original or renewal permit if it has reasonable grounds to believe and finds that the applicant or a person with whom the applicant is residentially domiciled has a financial interest in a permit or license authorizing the sale of beer at retail, except as is authorized by Section 22.06, 24.05, or 102.05. This section does not apply to an applicant for a permit which authorizes the sale of mixed beverages.

Acts 1977, 65th Leg., p. 409, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 37(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 37(b), eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 11.47. DENIAL OF PERMIT: INTEREST IN MALT BEVERAGE ESTABLISHMENT. The commission may deny an application for an original or renewal permit if it has reasonable grounds to believe and finds that the applicant or a person with whom the applicant is residentially domiciled has a financial interest in a permit or license authorizing the sale of malt beverages at retail, except as is authorized by Section 22.06, 24.05, or 102.05. This section does not apply to an applicant for a permit which authorizes the sale of mixed beverages.

Acts 1977, 65th Leg., p. 409, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 37(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 37(b), eff. September 1, 2021.

Sec. 11.48. DENIAL OF PACKAGE STORE OR MIXED BEVERAGE PERMIT. (a) The commission may deny an application for an original or renewal mixed beverage permit if it has reasonable grounds to believe and finds that the applicant, directly or indirectly, or through a subsidiary, affiliate, agent, or employee, or through an officer, director, or firm member, owns an interest of any kind in the premises, business, or permit of a package store.

(b) The commission may deny an application for an original or renewal package store permit if it has reasonable grounds to believe and finds that the applicant, directly or indirectly, through a subsidiary, affiliate, agent, or employee, or through an officer, director, or firm member, owns an interest of any kind in the premises, business, or permit of a mixed beverage establishment.

(c) This section does not apply to anything permitted by Section 102.05.

Acts 1977, 65th Leg., p. 409, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 38, eff. December 31, 2020.

Sec. 11.481. REFUSAL OF PERMIT AUTHORIZING ON-PREMISES CONSUMPTION. (a) In this section, "applicant" has the meaning assigned by Section 11.45.

(b) The commission shall deny an application for an original or renewal permit authorizing on-premises consumption of alcoholic beverages if the commission has reasonable grounds to believe and finds that, during the three years preceding the date the permit application was filed, a license or permit previously held under this code by the applicant, a person who owns the premises for which the permit is sought, or an officer of a person who owns the premises for which the permit is sought was canceled or not renewed as a result of a shooting, stabbing, or other violent act.

Text of subsection effective until September 1, 2021

(c) This section does not apply to the issuance of an original or renewal permit authorizing on-premises consumption for a location that also holds a food and beverage certificate but does not hold a late hours permit.

Text of subsection effective on September 1, 2021

(c) This section does not apply to the issuance of an original or renewal permit authorizing on-premises consumption for a location that also holds a food and beverage certificate but does not hold a retailer late hours certificate.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1303 (H.B. 2707), Sec. 2, eff. June 17, 2011.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 39, eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 40, eff. September 1, 2021.

Sec. 11.49. PREMISES DEFINED; DESIGNATION OF LICENSED PREMISES. (a) In this code, "premises" means the grounds and all buildings, vehicles, and appurtenances pertaining to the grounds, including any adjacent premises if they are directly or indirectly under the control of the same person.

(b) Subject to the approval of the commission and except as provided in Subsection (c), an applicant for a permit or license may designate a portion of the grounds, buildings, vehicles, and appurtenances to be excluded from the licensed premises.

Text of subsection effective until September 1, 2021

(b-1) If a designation under Subsection (b) has been made and approved as to the holder of a license or permit authorizing the sale of alcoholic beverages at retail or as to a private club registration permit, the sharing of space, employees, business facilities, and services with another business entity (including the permittee's lessor, which, if a corporation, may be a domestic or foreign corporation, but excluding a business entity holding any type of winery permit, a manufacturer's license, or a general or branch distributor's license), does not constitute a subterfuge or surrender of exclusive control in violation of Section 109.53 or the use or

display of the license for the benefit of another in violation of Section 61.71(a)(14). This subsection and Subsection (b) do not apply to original or renewal package store permits, wine only package store permits, local distributor's permits, or any type of wholesaler's permit.

Text of subsection effective on September 1, 2021

(b-1) If a designation under Subsection (b) has been made and approved as to the holder of a license or permit authorizing the sale of alcoholic beverages at retail or as to a private club registration permit, the sharing of space, employees, business facilities, and services with another business entity (including the permittee's lessor, which, if a corporation, may be a domestic or foreign corporation, but excluding a business entity holding any type of winery permit, a brewer's license, or a general or branch distributor's license), does not constitute a subterfuge or surrender of exclusive control in violation of Section 109.53 or the use or display of the license for the benefit of another in violation of Section 61.71(a)(14). This subsection and Subsection (b) do not apply to original or renewal package store permits, wine only package store permits, local distributor's permits, or any type of wholesaler's permit.

(c) An applicant for an original or renewal package store permit, wine only package store permit, local distributor's permit, or any type of wholesaler's permit may not take advantage of the right conferred by Subsection (b) of this section except as permitted in Section 11.50 or 109.53 of this code.

Text of subsection effective until September 1, 2021

(d) Any package store, wine only package store, wholesaler's, or local distributor's permittee who is injured in his business or property by another person (other than a person in his capacity as the holder of a wine and beer retailer's permit, wine and beer retailer's off-premise permit, private club registration permit, or mixed beverage permit or any person in the capacity of lessor of the holder of such a permit) by reason of anything prohibited in this section or Section 109.53 of this code is entitled to the same remedies available to a package store permittee under Section 109.53 of this code. Except for actions brought against a person in his capacity as the holder of or as the lessor of the holder of a wine and beer retailer's permit, wine and beer retailer's off-premise

permit, mixed beverage permit, or private club registration permit, the statute of limitations for any action brought under this section or Section 109.53 of this code for any cause of action arising after the effective date of this Act is four years unless a false affidavit has been filed with the commission in which event the statute of limitations is 10 years for all purposes.

Text of subsection effective on September 1, 2021

(d) Any package store, wine only package store, wholesaler's, or local distributor's permittee who is injured in the permittee's business or property by another person (other than a person in the person's capacity as the holder of a wine and malt beverage retailer's permit, wine and malt beverage retailer's off-premise permit, private club registration permit, or mixed beverage permit or any person in the capacity of lessor of the holder of such a permit) by reason of anything prohibited in this section or Section 109.53 is entitled to the same remedies available to a package store permittee under Section 109.53. Except for actions brought against a person in the person's capacity as the holder of or as the lessor of the holder of a wine and malt beverage retailer's permit, wine and malt beverage retailer's off-premise permit, mixed beverage permit, or private club registration permit, the statute of limitations for any action brought under this section or Section 109.53 for any cause of action arising after the effective date of this Act is four years unless a false affidavit has been filed with the commission in which event the statute of limitations is 10 years for all purposes.

Text of subsection effective until September 1, 2021

(e) When a designation under Subsection (b) of this section is made by a wine and beer retailer or a beer retailer, selling primarily for off-premise consumption, or by a wine and beer retailer's off-premise permittee, no more than 20 percent of the retail floor and display space of the entire premises may be included in the licensed premises, and all the retail floor and display space in the licensed premises must be compact and contiguous and may not be gerrymandered. However, the retail floor and display space included in the licensed premises may be in two separate locations within the retail premises if the total retail floor and display space included in the licensed premises does not exceed 20 percent of the floor and display space of the entire premises and each of the two portions of floor and display space included in the licensed

premises is itself compact and contiguous and not gerrymandered. In addition to the one or two separate locations of retail floor and display space on the premises, the licensed premises may include the cash register and check-out portions of the premises provided that (1) no alcoholic beverages are displayed in the check-out or cash register portion of the premises, and (2) the area of the check-out and cash register portions of the premises are counted towards the total of 20 percent of the retail floor and display space that may be dedicated to the sale and display of wine and beer. A storage area that is not accessible or visible to the public may be included in the licensed premises but shall not be considered retail floor and display space for purposes of this section. The commission or administrator shall adopt rules to implement this subsection and to prevent gerrymandering.

Text of subsection effective on September 1, 2021

(e) When a designation under Subsection (b) is made by a wine and malt beverage retailer or a malt beverage retailer, selling primarily for off-premise consumption, or by a wine and malt beverage retailer's off-premise permittee, no more than 20 percent of the retail floor and display space of the entire premises may be included in the licensed premises, and all the retail floor and display space in the licensed premises must be compact and contiguous and may not be gerrymandered. However, the retail floor and display space included in the licensed premises may be in two separate locations within the retail premises if the total retail floor and display space included in the licensed premises does not exceed 20 percent of the floor and display space of the entire premises and each of the two portions of floor and display space included in the licensed premises is itself compact and contiguous and not gerrymandered. In addition to the one or two separate locations of retail floor and display space on the premises, the licensed premises may include the cash register and check-out portions of the premises provided that (1) no alcoholic beverages are displayed in the check-out or cash register portion of the premises, and (2) the area of the check-out and cash register portions of the premises are counted towards the total of 20 percent of the retail floor and display space that may be dedicated to the sale and display of wine and malt beverages. A storage area that is not accessible or visible to the public may be included in the licensed premises but shall not be considered retail floor and display space for purposes of this section. The commission

or administrator shall adopt rules to implement this subsection and to prevent gerrymandering.

Acts 1977, 65th Leg., p. 410, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 1443, ch. 634, Sec. 1, eff. Aug. 27, 1979.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 544 (S.B. 371), Sec. 2, eff. September 1, 2017.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 41(a), eff. December 31, 2020.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 41(b), eff. September 1, 2021.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 42, eff. September 1, 2021.

Sec. 11.492. CHANGE OF LICENSE OR PERMIT FROM ON-PREMISE TO OFF-PREMISE.

Text of subsection effective until September 1, 2021

(a) A holder of a wine and beer retailer's permit may change the permit to a wine and beer retailer's off-premise permit, and a holder of a retail dealer's on-premise license may change the license to a retail dealer's off-premise license, in the manner provided by this section.

Text of subsection effective on September 1, 2021

(a) A holder of a wine and malt beverage retailer's permit may change the permit to a wine and malt beverage retailer's off-premise permit, and a holder of a retail dealer's on-premise license may change the license to a retail dealer's off-premise license, in the manner provided by this section.

Text of subsection effective until September 1, 2021

(b) Any time before the expiration of a wine and beer retailer's permit or a retail dealer's on-premise license the permittee or licensee may file an application for a change of permit or license under Subsection (a) of this section. The applicant must make the application on a form provided by the commission and the application must be accompanied by the appropriate fee for the permit

or license sought.

Text of subsection effective on September 1, 2021

(b) Any time before the expiration of a wine and malt beverage retailer's permit or a retail dealer's on-premise license the permittee or licensee may file an application for a change of permit or license under Subsection (a). The applicant must make the application on a form provided by the commission and the application must be accompanied by the appropriate fee for the permit or license sought.

(c) The commission shall consider an application under this section in the same manner and according to the same criteria as it would consider a renewal application of the license or permit held by the permittee or licensee. Procedures applicable to an application for an original license or permit do not apply. The commission shall issue a new license or permit to an applicant if the commission determines the applicant is eligible to hold the license or permit sought. The license or permit takes effect on the expiration of the old license or, if requested in the application, on approval. The former license is canceled on the effective date of the new license. The licensee or permittee is not entitled to a refund for the unexpired portion of a canceled license or permit.

Added by Acts 1983, 68th Leg., p. 2427, ch. 429, Sec. 1 eff. Sept. 1, 1983.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 43, eff. September 1, 2021.

Sec. 11.493. SUPPLEMENTAL OR AMENDED DESIGNATION OF PREMISES. (a) Subject to the limitations imposed by Section 11.49 of this code on designating a portion of a building or premises where alcoholic beverages may be sold or served, a licensee or permittee may submit an amended or supplemental designation at the time of renewal of the license or permit or at any other time, provided the license or permit is not under suspension at the time the amended or supplemental designation is submitted.

(b) If the amended or supplemental designation is submitted with an application for renewal, there is no charge for processing the document. If the amended or supplemental designation is

submitted at any other time, the commission may charge a fee for processing the document.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 1, Sec. 1, eff. Aug. 23, 1991.

Sec. 11.494. SUPPLEMENTAL DESIGNATION OF CERTAIN AREAS AUTHORIZED. The holder of a mixed beverage permit or private club permit covering premises located in or adjacent to an area described in Section 251.74(b)(1) of this code may submit an amended or supplemental designation of premises to the administrator enlarging or altering the premises covered by the permit where alcoholic beverages may be sold to include any structures located in that area. The premises as described in the amended or supplemental designation as submitted is the licensed premises of the mixed beverage permittee or private club permittee for all purposes, notwithstanding Section 109.57(c) of this code or any other provision of this code or law of this state to the contrary. A city charter, zoning ordinance, or regulation does not alter, limit, or affect in any way the permittee's sale of alcoholic beverages on those premises.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 1, Sec. 2, eff. Aug. 23, 1991.

Sec. 11.495. CONFORMANCE OF PREMISES WITH THE AMERICANS WITH DISABILITIES ACT. (a) A permittee or licensee shall certify that any area to be designated as the premises where alcoholic beverages may be sold or served has been reviewed for compliance with Title III of the Americans with Disabilities Act of 1990.

(b) Any permittee or licensee designating a premise for which this certification cannot be made shall be provided with information on compliance with the Americans with Disabilities Act by the commission. The commission shall utilize materials produced by the United States Department of Justice, United States Department of Justice grantees, grantees of other federal agencies such as the National Institute on Disability and Rehabilitation Research, any agency of the State of Texas, trade associations of permittees or licensees, and other sources of a similar nature.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 22, eff. Sept. 1, 1993.

Sec. 11.50. LICENSING A PORTION OF A BUILDING AS PREMISES. (a) This section applies to a package store permit which was issued on or before April 1, 1971, and which was in good standing, not under suspension, and in actual operation and doing business on that date, unless temporarily prevented from operation by a natural disaster. This section does not apply to a permit if a change in the size or location of the licensed premises has occurred subsequent to April 1, 1971, or if after that date a change in ownership has occurred, by majority stock transfer or otherwise, except by devise or descent where the holder of the permit died on or after April 1, 1971.

(b) Notwithstanding any other provision of this code, the holder of a package store permit to which this section applies may continue to operate a package store on premises comprising a portion of a building if not later than November 28, 1971, he clearly defined the licensed premises by isolating it from the remainder of the building by the erection of a wall or screen so that the licensed premise is accessible from the remainder of the building only through a door or archway, eight feet or less in width, in the wall or screen. The door or archway must be kept closed during the hours in which it is not legal to sell liquor.

(c) If the right to continue operation under this exception terminates for any reason, the right shall not revive.

Acts 1977, 65th Leg., p. 410, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.51. WHOLESALERS MAY SHARE DELIVERY VEHICLES. Section 64.07 of this code relates to delivery vehicles shared by wholesalers.

Added by Acts 1987, 70th Leg., ch. 359, Sec. 2, eff. Aug. 31, 1987.

Sec. 11.52. RESTRICTIONS ON LOCATION IN CERTAIN MUNICIPALITIES.

Text of subsection effective until September 1, 2021

(a) In a municipality with a population of 1,500,000 or more,

an applicant for an original or renewal mixed beverage permit or wine and beer retailer's permit shall provide the notice required by Subsection (b) if:

(1) any point of the property line of the premise is less than 300 feet from the nearest point on a property line of a residence, church, school, hospital, day-care facility, or social service facility, as measured in a straight line; and

(2) 75 percent or more of the permittee's actual or anticipated gross revenue is from the sale of alcoholic beverages.

Text of subsection effective on September 1, 2021

(a) In a municipality with a population of 1,500,000 or more, an applicant for an original or renewal mixed beverage permit or wine and malt beverage retailer's permit shall provide the notice required by Subsection (b) if:

(1) any point of the property line of the premise is less than 300 feet from the nearest point on a property line of a residence, church, school, hospital, day-care facility, or social service facility, as measured in a straight line; and

(2) 75 percent or more of the permittee's actual or anticipated gross revenue is from the sale of alcoholic beverages.

(b) An applicant for an original or renewal permit shall give notice to all tenants or property owners affected in the area described by Subsection (a) that an application has been made within five days after the application is first filed for an original application and at least 30 days prior to the expiration date of a permit in the case of a renewal application.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 23, eff. Sept. 1, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 44(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 44(b), eff. September 1, 2021.

SUBCHAPTER C. CANCELLATION AND SUSPENSION OF PERMITS

Sec. 11.61. CANCELLATION OR SUSPENSION OF PERMIT. (a) As used in Subsection (b) of this section, the word "permittee" also includes each member of a partnership or association and, with respect to a corporation, each officer and the owner or owners of a majority of

the corporate stock. This section shall not be construed as prohibiting anything permitted under Section 22.06, 24.05, or 102.05 of this code.

Text of subsection effective until September 1, 2021

(b) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal permit if it is found, after notice and hearing, that any of the following is true:

(1) the permittee has been finally convicted of a violation of this code;

(2) the permittee violated a provision of this code or a rule of the commission;

(3) the permittee was finally convicted of a felony while holding an original or renewal permit;

(4) the permittee made a false or misleading statement in connection with the permittee's original or renewal application, either in the formal application itself or in any other written instrument relating to the application submitted to the commission, its officers, or employees;

(5) the permittee is indebted to the state for taxes, fees, or payment of penalties imposed by this code, by a rule of the commission, or by Chapter 183, Tax Code;

(6) the permittee is not of good moral character or the permittee's reputation for being a peaceable and law-abiding citizen in the community where the permittee resides is bad;

(7) the place or manner in which the permittee conducts the permittee's business warrants the cancellation or suspension of the permit based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency;

(8) the permittee is not maintaining an acceptable bond;

(9) the permittee maintains a noisy, lewd, disorderly, or unsanitary establishment or has supplied impure or otherwise deleterious beverages;

(10) the permittee is insolvent or has developed an incapacity that prevents or could prevent the permittee from carrying on the management of the permittee's establishment with reasonable skill, competence, and safety to the public;

(11) the permittee is in the habit of using alcoholic beverages to excess;

(12) the permittee knowingly misrepresented to a customer or the public any liquor sold by the permittee;

(13) the permittee was intoxicated on the licensed premises;

(14) the permittee sold or delivered an alcoholic beverage to an intoxicated person;

(15) the permittee possessed on the licensed premises an alcoholic beverage that the permittee was not authorized under the permit to purchase and sell;

(16) a package store or wine only package store permittee transported or shipped liquor, or caused it to be transported or shipped, into a dry state or a dry area within this state;

(17) the permittee is residentially domiciled with a person who has a financial interest in an establishment engaged in the business of selling beer at retail, other than a mixed beverage establishment, except as authorized by Section 22.06, 24.05, or 102.05;

(18) the permittee is residentially domiciled with a person whose permit or license was cancelled for cause within the 12-month period preceding the permittee's own application;

(19) the permittee is not a citizen of the United States or has not been a citizen of Texas for a period of one year immediately preceding the filing of the permittee's application, unless the permittee was issued an original or renewal permit on or before September 1, 1948, and has been a United States citizen at some time;

(20) the permittee permitted a person to open a container of alcoholic beverage or possess an open container of alcoholic beverage on the licensed premises unless a mixed beverage permit has been issued for the premises;

(21) the permittee failed to promptly report to the commission a breach of the peace occurring on the permittee's licensed premises;

(22) the permittee consumed an alcoholic beverage or permitted one to be consumed on the licensed premises at a time when the consumption of alcoholic beverages is prohibited by this code; or

(23) the permittee sold, served, or delivered an alcoholic beverage at a time when its sale is prohibited.

Text of subsection effective on September 1, 2021

(b) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal permit if it is found, after notice and hearing, that any of the following is true:

(1) the permittee has been finally convicted of a violation

of this code;

(2) the permittee violated a provision of this code or a rule of the commission;

(3) the permittee was finally convicted of a felony while holding an original or renewal permit;

(4) the permittee made a false or misleading statement in connection with the permittee's original or renewal application, either in the formal application itself or in any other written instrument relating to the application submitted to the commission, its officers, or employees;

(5) the permittee is indebted to the state for taxes, fees, or payment of penalties imposed by this code, by a rule of the commission, or by Chapter 183, Tax Code;

(6) the permittee is not of good moral character or the permittee's reputation for being a peaceable and law-abiding citizen in the community where the permittee resides is bad;

(7) the place or manner in which the permittee conducts the permittee's business warrants the cancellation or suspension of the permit based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency;

(8) the permittee is not maintaining an acceptable bond;

(9) the permittee maintains a noisy, lewd, disorderly, or unsanitary establishment or has supplied impure or otherwise deleterious beverages;

(10) the permittee is insolvent or has developed an incapacity that prevents or could prevent the permittee from carrying on the management of the permittee's establishment with reasonable skill, competence, and safety to the public;

(11) the permittee is in the habit of using alcoholic beverages to excess;

(12) the permittee knowingly misrepresented to a customer or the public any liquor sold by the permittee;

(13) the permittee was intoxicated on the licensed premises;

(14) the permittee sold or delivered an alcoholic beverage to an intoxicated person;

(15) the permittee possessed on the licensed premises an alcoholic beverage that the permittee was not authorized under the permit to purchase and sell;

(16) a package store or wine only package store permittee

transported or shipped liquor, or caused it to be transported or shipped, into a dry state or a dry area within this state;

(17) the permittee is residentially domiciled with a person who has a financial interest in an establishment engaged in the business of selling malt beverages at retail, other than a mixed beverage establishment, except as authorized by Section 22.06, 24.05, or 102.05;

(18) the permittee is residentially domiciled with a person whose permit or license was cancelled for cause within the 12-month period preceding the permittee's own application;

(19) the permittee is not a citizen of the United States or has not been a citizen of Texas for a period of one year immediately preceding the filing of the permittee's application, unless the permittee was issued an original or renewal permit on or before September 1, 1948, and has been a United States citizen at some time;

(20) the permittee permitted a person to open a container of alcoholic beverage or possess an open container of alcoholic beverage on the licensed premises unless a mixed beverage permit has been issued for the premises;

(21) the permittee failed to promptly report to the commission a breach of the peace occurring on the permittee's licensed premises;

(22) the permittee consumed an alcoholic beverage or permitted one to be consumed on the licensed premises at a time when the consumption of alcoholic beverages is prohibited by this code; or

(23) the permittee sold, served, or delivered an alcoholic beverage at a time when its sale is prohibited.

Text of subsection effective until September 1, 2021

(b-1) Notwithstanding Section 204.01 and any other provision of this code, a person applying for a license or permit under Chapter 25 or 69 for the on-premises consumption of beer exclusively or beer and wine exclusively, other than a license or permit for an establishment holding a food and beverage certificate whose primary business being operated on the premises is food service, must file with the commission a surety bond, in an amount to be determined by the commission, conditioned on the licensee's or permittee's conformance with the alcoholic beverage law. The bond is forfeited to the commission on the suspension of the license or permit for the first time under this section or Section 61.71. Before the suspended license or permit may be reinstated, the licensee or permittee must

furnish a second surety bond, similarly conditioned, in an amount greater than the initial surety bond, the amount to be determined by the commission. If the same license or permit is suspended under this section or Section 61.71 a second time, the bond is again forfeited to the commission. Before the suspended license or permit may be reinstated, the licensee or permittee shall furnish a third surety bond, similarly conditioned, in an amount greater than the second surety bond, the amount to be determined by the commission. If the same license or permit is suspended under this section or Section 61.71 a third time, the bond is again forfeited to the commission and the license or permit shall be canceled by the commission. This subsection applies only to a license or permit held in connection with an establishment located in a county with a population of 1.4 million or more.

Text of subsection effective on September 1, 2021

(b-1) Notwithstanding Section 204.01 and any other provision of this code, a person applying for a license or permit under Chapter 25 or 69 for the on-premises consumption of malt beverages exclusively or malt beverages and wine exclusively, other than a license or permit for an establishment holding a food and beverage certificate whose primary business being operated on the premises is food service, must file with the commission a surety bond, in an amount to be determined by the commission, conditioned on the licensee's or permittee's conformance with the alcoholic beverage law. The bond is forfeited to the commission on the suspension of the license or permit for the first time under this section or Section 61.71. Before the suspended license or permit may be reinstated, the licensee or permittee must furnish a second surety bond, similarly conditioned, in an amount greater than the initial surety bond, the amount to be determined by the commission. If the same license or permit is suspended under this section or Section 61.71 a second time, the bond is again forfeited to the commission. Before the suspended license or permit may be reinstated, the licensee or permittee shall furnish a third surety bond, similarly conditioned, in an amount greater than the second surety bond, the amount to be determined by the commission. If the same license or permit is suspended under this section or Section 61.71 a third time, the bond is again forfeited to the commission and the license or permit shall be canceled by the commission. This subsection applies only to a license or permit held in connection with an establishment located in

a county with a population of 1.4 million or more.

(b-2) Subsection (b-1) does not apply to a fraternal organization or veterans organization, as those terms are defined by Section 32.11.

(c) The commission or administrator may refuse to renew or, after notice and hearing, suspend for not more than 60 days or cancel a permit if the commission or administrator finds that the permittee:

(1) no longer holds a sales tax permit, if required, for the place of business covered by the alcoholic beverage permit; or

(2) is shown on the records of the comptroller of public accounts as being subject to a final determination of taxes due and payable under the Limited Sales, Excise and Use Tax Act (Chapter 151, Tax Code), or is shown on the records of the comptroller of public accounts as being subject to a final determination of taxes due and payable under Chapter 321, Tax Code.

Text of subsection effective until September 1, 2021

(d) The commission or administrator without a hearing may for investigative purposes summarily suspend a mixed beverage permit or a wine and beer retailer's permit for not more than seven days if the commission or administrator finds that a shooting, stabbing, or murder has occurred on the licensed premises which is likely to result in a subsequent act of violence. Notice of the order suspending the permit shall be given to the permittee personally within 24 hours of the time the violent act occurs. If the permittee cannot be located, notice shall be provided by posting a copy of the order on the front door of the licensed premises.

Text of subsection effective on September 1, 2021

(d) The commission or administrator without a hearing may for investigative purposes summarily suspend a mixed beverage permit or a wine and malt beverage retailer's permit for not more than seven days if the commission or administrator finds that a shooting, stabbing, or murder has occurred on the licensed premises which is likely to result in a subsequent act of violence. Notice of the order suspending the permit shall be given to the permittee personally within 24 hours of the time the violent act occurs. If the permittee cannot be located, notice shall be provided by posting a copy of the order on the front door of the licensed premises.

(d-1) Notwithstanding Section 11.64, the commission or administrator shall cancel an original or renewal permit if it is

found, after notice and hearing, that the permittee was convicted of an offense under Section 101.76.

(e) Except as provided by Subsection (f) or (i), the commission or administrator shall cancel an original or renewal permit if it is found, after notice and hearing, that the permittee knowingly allowed a person to possess a firearm in a building on the licensed premises. This subsection does not apply to a person:

(1) who holds a security officer commission issued under Chapter 1702, Occupations Code, if:

(A) the person is engaged in the performance of the person's duties as a security officer;

(B) the person is wearing a distinctive uniform; and

(C) the weapon is in plain view;

(2) who is a peace officer;

(3) who is a permittee or an employee of a permittee if the person is supervising the operation of the premises; or

(4) who possesses a handgun the person is licensed to carry under Subchapter H, Chapter 411, Government Code, unless the person is on the premises of a business described by Section 46.035(b)(1), Penal Code.

(f) The commission may adopt a rule allowing:

(1) a gun or firearm show on the premises of a permit holder, if the premises is owned or leased by a governmental entity or a nonprofit civic, religious, charitable, fraternal, or veterans' organization;

(2) the holder of a permit for the sale of alcoholic beverages for off-premises consumption to also hold a federal firearms license; or

(3) the ceremonial display of firearms on the premises of the permit holder.

(g) The length of a suspension must be appropriate for the nature and seriousness of the violation. In determining the length of a suspension, the commission or administrator shall consider:

(1) the type of license or permit held;

(2) the type of violation;

(3) any aggravating or ameliorating circumstances concerning the violation, including those enumerated in Section 11.64(c); and

(4) the permittee's or licensee's previous violations.

(h) The length of a suspension may not be based on:

(1) the volume of alcoholic beverages sold;
(2) the receipts of the business;
(3) the taxes paid; or
(4) the financial condition of the permittee or licensee.

(i) The commission shall adopt rules allowing a historical reenactment on the premises of a permit holder. Rules adopted under this subsection must prohibit the use of live ammunition in a historical reenactment.

Text of subsection effective until September 1, 2021

(j) A hearing under Subsection (b) must be concluded not later than the 60th day after notice is provided under that subsection. Neither the permittee nor the commission may waive the provisions of this subsection. This subsection applies only to a hearing in connection with a wine and beer retailer's permit, other than a permit held with a food and beverage certificate, for premises located in a county with a population of 1.4 million or more.

Text of subsection effective on September 1, 2021

(j) A hearing under Subsection (b) must be concluded not later than the 60th day after notice is provided under that subsection. Neither the permittee nor the commission may waive the provisions of this subsection. This subsection applies only to a hearing in connection with a wine and malt beverage retailer's permit, other than a permit held with a food and beverage certificate, for premises located in a county with a population of 1.4 million or more.

Acts 1977, 65th Leg., p. 410, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1967, ch. 777, Sec. 4, 5, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 1779, ch. 389, Sec. 32, eff. Jan. 1, 1982; Acts 1985, 69th Leg., ch. 687, Sec. 1, eff. Sept. 1, 1985; Acts 1989, 71st Leg., ch. 2, Sec. 14.27(a)(2), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1200, Sec. 1, eff. June 16, 1989; Acts 1993, 73rd Leg., ch. 934, Sec. 24, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 998, Sec. 1, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1001, Sec. 5, eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 1060, Sec. 3, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 1001, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1261, Sec. 17, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 9.19, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 14.725, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1223, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 452 (S.B. 1850), Sec. 3, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 628 (H.B. 2451), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 976 (H.B. 1813), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(2), eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 755 (H.B. 1469), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1302 (H.B. 3142), Sec. 2, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 424 (S.B. 367), Sec. 3, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 2, eff. January 1, 2016.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 45(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 45(b), eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 46, eff. September 1, 2021.

Sec. 11.611. CONVICTION OF OFFENSE RELATING TO DISCRIMINATION. The commission or administrator may suspend for not more than 60 days or cancel an original or renewal permit if it is found, after notice and hearing that:

(1) the permittee has been finally convicted of any offense under state or federal law or a municipal ordinance prohibiting the violation of an individual's civil rights or the discrimination against an individual on the basis of the individual's race, color, creed, or national origin; and

(2) the offense was committed on the licensed premises or in connection with the operation of the permittee's business.

Added by Acts 1979, 66th Leg., p. 1440, ch. 632, Sec. 1, eff. Aug. 27, 1979.

Sec. 11.612. CANCELLATION OF PRIVATE CLUB PERMIT.

Text of subsection effective until September 1, 2021

(a) The commission or administrator may cancel an original or a renewal permit issued under Chapter 32 or 33 and the commission may deny an application for any new alcoholic beverage permit for the same premises for one year after the date of cancellation if:

(1) the chief of police of the municipality, if the premises are located in an incorporated area, or the sheriff of the county in which the premises are located has submitted a sworn statement to the commission stating specific allegations that the place or manner in which the permittee conducts its business endangers the general welfare, health, peace, morals, or safety of the community; and

(2) the commission or administrator finds, after notice and hearing within the county where the premises are located, that the place or manner in which the permittee conducts its business does in fact endanger the general welfare, health, peace, morals, or safety of the community.

Text of subsection effective on September 1, 2021

(a) The commission or administrator may cancel an original or a renewal certificate issued under Chapter 29 to the holder of a private club registration permit or a permit issued under Chapter 32 and the commission may deny an application for any new alcoholic beverage permit for the same premises for one year after the date of cancellation if:

(1) the chief of police of the municipality, if the premises are located in an incorporated area, or the sheriff of the county in which the premises are located has submitted a sworn statement to the commission stating specific allegations that the place or manner in which the permittee conducts its business endangers the general welfare, health, peace, morals, or safety of the community; and

(2) the commission or administrator finds, after notice and hearing within the county where the premises are located, that the place or manner in which the permittee conducts its business does in fact endanger the general welfare, health, peace, morals, or safety of the community.

(b) This section does not apply to a permit issued to a fraternal or veterans organization or the holder of a food and

beverage certificate.

Added by Acts 1995, 74th Leg., ch. 1060, Sec. 4, eff. Aug. 28, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 47(a), eff. December 31, 2020.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 47(b), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 11.613. SUMMARY SUSPENSION OF PRIVATE CLUB PERMIT. The commission or administrator without a hearing may for investigative purposes summarily suspend a permit issued under Chapter 32 or 33 for not more than seven days if the commission or administrator finds that a shooting, stabbing, or murder has occurred on the licensed premises that is likely to result in a subsequent act of violence. Notice of the order suspending the permit shall be given to the permittee personally within 72 hours of the time the violent act occurs. If the permittee cannot be located, notice shall be provided by posting a copy of the order on the front door of the licensed premises.

Added by Acts 1995, 74th Leg., ch. 1060, Sec. 4, eff. Aug. 28, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 48, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 11.613. SUMMARY SUSPENSION OF PRIVATE CLUB PERMIT. The commission or administrator without a hearing may for investigative purposes summarily suspend a certificate issued under Chapter 29 to the holder of a private club registration permit or a permit issued under Chapter 32 for not more than seven days if the commission or administrator finds that a shooting, stabbing, or murder has occurred on the licensed premises that is likely to result in a subsequent act of violence. Notice of the order suspending the permit shall be given to the permittee personally within 72 hours of the time the violent act occurs. If the permittee cannot be located, notice shall

be provided by posting a copy of the order on the front door of the licensed premises.

Added by Acts 1995, 74th Leg., ch. 1060, Sec. 4, eff. Aug. 28, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 48, eff. September 1, 2021.

Sec. 11.614. ORDER SUSPENDING PERMIT OR LICENSE. (a) If the commission or administrator determines that the continued operation of a permitted or licensed business would constitute a continuing threat to the public welfare, the commission or administrator may issue an emergency order, without a hearing, suspending the permit or license for not more than 90 days.

(b) An order suspending a permit or license under this section must state the length of the suspension in the order.

(c) If an emergency order is issued without a hearing under this section, the commission or administrator shall set the time and place for a hearing to be conducted not later than the 10th day after the date the order was issued. A hearing under this section to affirm, modify, or set aside the emergency order shall be conducted by the State Office of Administrative Hearings at a location authorized by Section 11.015. The order shall be affirmed to the extent that reasonable cause existed to issue the order.

(d) The commission by rule may prescribe procedures for the determination and appeal of an emergency order issued under this section, including a rule allowing the commission to affirm, modify, or set aside a decision made by the State Office of Administrative Hearings under Subsection (c).

(e) A proceeding under this section is a contested case under Chapter 2001, Government Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 49, eff. September 1, 2019.

Sec. 11.615. DISCIPLINARY ACTION FOR VIOLATION OF ORDER. The commission may deny an application for an original or renewal permit or license or take other disciplinary action against a permit or license holder who violates an order of the commission or

administrator.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 49, eff. September 1, 2019.

Sec. 11.62. HEARING FOR CANCELLATION OR SUSPENSION OF PERMIT. The commission or administrator may, on the motion of either, set a date for a hearing to determine if a permit should be cancelled or suspended. The commission or administrator shall set a hearing on the petition of the mayor, chief of police, city marshal, or city attorney of the city or town in which the licensed premises are located or of the county judge, sheriff, or county or district attorney of the county in which the licensed premises are located. The petition must be supported by the sworn statement of at least one credible person. The commission or administrator shall give the permittee notice of the hearing and of his right to appear and show cause why the permit should not be cancelled.

Acts 1977, 65th Leg., p. 412, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.63. NOTICE OF HEARING. At least 10 days' notice shall be given when a hearing is provided by this code. A notice of hearing for the denial, cancellation, or suspension of a license or permit may be served personally by a representative of the commission or sent by registered or certified mail addressed to the licensee or permittee.

Acts 1977, 65th Leg., p. 412, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 50, eff. December 31, 2020.

Sec. 11.64. ALTERNATIVES TO SUSPENSION, CANCELLATION. (a) When the commission or administrator is authorized to suspend a permit or license under this code, the commission or administrator shall give the permittee or licensee the opportunity to pay a civil penalty rather than have the permit or license suspended, unless the basis for the suspension is a violation of Section 11.61(b)(14),

22.12, 28.11, 32.17(a)(2), 32.17(a)(3), 61.71(a)(5), 61.71(a)(6), 61.74(a)(14), 69.13, 71.09, 101.04, 101.63, 104.01(a)(4), 106.03, 106.06, or 106.15, the sale or offer for sale of an alcoholic beverage during hours prohibited by Chapter 105, consumption or the permitting of consumption of an alcoholic beverage on the person's licensed or permitted premises during hours prohibited by Chapter 105 or Section 32.17(a)(7), or an offense relating to prostitution, trafficking of persons, gambling, or controlled substances or drugs, in which case the commission or administrator shall determine whether the permittee or licensee may have the opportunity to pay a civil penalty rather than have the permit or license suspended. The commission shall adopt rules addressing when suspension may be imposed pursuant to this section without the opportunity to pay a civil penalty. In adopting rules under this subsection, the commission shall consider the type of license or permit held, the type of violation, any aggravating or ameliorating circumstances concerning the violation, and any past violations of this code by the permittee or licensee. In cases in which a civil penalty is assessed, the commission or administrator shall determine the amount of the penalty. The amount of the civil penalty may not be less than $150 or more than $25,000 for each day the permit or license was to have been suspended. If the licensee or permittee does not pay the penalty before the sixth day after the commission or administrator notifies him of the amount, the commission or administrator shall impose the suspension.

(b) In the case of a violation of this code by a permittee or a licensee, the commission or administrator may relax any provision of the code relating to the suspension or cancellation of the permit or license and assess a sanction the commission or administrator finds just under the circumstances, and the commission or administrator may reinstate the license or permit at any time during the period of suspension on payment by the permittee or licensee of a fee of not less than $75 nor more than $500, if the commission or administrator finds that any of the circumstances described in Subsection (c) exists.

(c) The following circumstances justify the application of Subsection (b):

(1) that the violation could not reasonably have been prevented by the permittee or licensee by the exercise of due diligence;

(2) that the permittee or licensee was entrapped;

(3) that an agent, servant, or employee of the permittee or licensee violated this code without the knowledge of the permittee or licensee;

(4) that the permittee or licensee did not knowingly violate this code;

(5) that the permittee or licensee has demonstrated good faith, including the taking of actions to rectify the consequences of the violation and to deter future violations; or

(6) that the violation was a technical one.

(d) Fees and civil penalties received by the commission under this section shall be deposited in the general revenue fund.

Acts 1977, 65th Leg., p. 413, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 1180, ch. 453, Sec. 1, eff. Sept. 1, 1977; Acts 1983, 68th Leg., p. 1355, ch. 278, Sec. 59 eff. Sept. 1, 1983; Acts 1993, 73rd Leg., ch. 934, Sec. 25, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 926, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 80, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1223, Sec. 2, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. 904), Sec. 17, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 515 (H.B. 2014), Sec. 1.03, eff. September 1, 2011.

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

Acts 2017, 85th Leg., R.S., Ch. 56 (H.B. 1612), Sec. 1, eff. September 1, 2017.

Sec. 11.641. AMOUNT OF CIVIL PENALTY. (a) The amount of the civil penalty under Section 11.64 must be appropriate for the nature and seriousness of the violation. In determining the amount of the civil penalty, the commission or administrator shall consider:

(1) the type of license or permit held;

(2) the type of violation;

(3) any aggravating or ameliorating circumstances concerning the violation, including those enumerated in Section 11.64(c);

(4) the permittee's or licensee's previous violations; and

(5) if the commission or administrator determines the permittee or licensee has previously violated this code, whether the permittee or licensee profited from the violation, and if so the amount of the permittee's or licensee's profit.

(b) Except as provided by Subsection (a), the amount of the civil penalty may not be based on:

(1) the volume of alcoholic beverages sold;

(2) the receipts of the business;

(3) the taxes paid; or

(4) the financial condition of the permittee or licensee.

(c) A civil penalty, including cancellation of a permit, may not be imposed on the basis of a criminal prosecution in which the defendant was found not guilty, the criminal charges were dismissed, or there has not been final adjudication.

Acts 2003, 78th Leg., ch. 1223, Sec. 3, eff. Sept. 1, 2003. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 21.03, eff. Jan. 11, 2004.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 51, eff. September 1, 2019.

Sec. 11.65. NOTICE OF CANCELLATION OR SUSPENSION. (a) A notice of cancellation or suspension of a license or permit shall be given to the licensee or permittee as provided by Section 2001.142, Government Code.

(b) Cancellation or suspension is final and effective as provided by Section 2001.144, Government Code.

Acts 1977, 65th Leg., p. 412, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 687 (H.B. 1734), Sec. 1, eff. September 1, 2007.

Sec. 11.66. SUSPENSION OR CANCELLATION AGAINST RETAILER. Except for a violation of the credit or cash law, a penalty of suspension or cancellation of the license or permit of a retailer shall be assessed against the permit or license for the premises

where the offense was committed.

Acts 1977, 65th Leg., p. 413, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.67. APPEAL FROM CANCELLATION, SUSPENSION, OR DENIAL OF LICENSE OR PERMIT. (a) An appeal from an order of the commission or administrator cancelling or suspending a permit or license may be taken to the district court of the county in which the licensee or permittee resides or in which the owner of involved real or personal property resides.

(b) The appeal shall be under the substantial evidence rule and against the commission alone as defendant. The rules applicable to ordinary civil suits apply, with the following exceptions, which shall be construed literally:

(1) the appeal shall be perfected and filed within 30 days after the date the order, decision, or ruling of the commission or administrator becomes final and appealable;

(2) the case shall be tried before a judge within 20 days from the date it is filed;

(3) neither party is entitled to a jury; and

(4) the order, decision, or ruling of the commission or administrator may be suspended or modified by the court pending a trial on the merits, but the final judgment of the district court may not be modified or suspended pending appeal.

(c) A local official on record as protesting the issuance or renewal of a permit or license is entitled to notice of the appeal. If other persons are on record as protesting the issuance or renewal of a permit or license, the first three persons to be on record are entitled to notice of the appeal. The appellant is responsible for causing the notice to be given. The notice shall be given by sending, on or before the third day after the date on which the appeal is filed, a copy of the petition by registered or certified mail to the persons entitled to receive the notice.

(d) If the appeal is from an order denying an application for an original or renewal permit or license for a business that is sexually oriented, any person may appear on appeal against the issuance or renewal of the license or permit. However, the court may grant a motion to strike the person's appearance on a showing that the person does not have a justiciable or administratively cognizable

interest in the proceeding.

Acts 1977, 65th Leg., p. 413, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2636, ch. 707, Sec. 4(18), eff. Aug. 31, 1981; Acts 1985, 69th Leg., ch. 171, Sec. 1, eff. Sept. 1, 1985; Acts 1987, 70th Leg. ch. 369, Sec. 1, eff. Aug. 31, 1987. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 514 (H.B. 1956), Sec. 1, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 52, eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 53, eff. December 31, 2020.

Sec. 11.68. ACTIVITIES PROHIBITED DURING SUSPENSION. No permittee may sell, offer for sale, distribute, or deliver any alcoholic beverage while his permit is suspended.

Acts 1977, 65th Leg., p. 413, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.69. DISPOSAL OF BEVERAGES IN BULK. The commission may provide by rule the manner and time in which a person whose license or permit is suspended or cancelled or a receiver or successor in interest of a deceased, insolvent, or bankrupt permittee or licensee may dispose of in bulk the alcoholic beverages on hand at the termination of the use of the permit or license.

Acts 1977, 65th Leg., p. 413, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.70. LIABILITY OF SURETY. (a) If a permittee or a person having an interest in a permit is finally convicted of the violation of a provision of this code or of a rule or regulation of the commission, or if a permit is cancelled by the commission and no appeal is pending, the commission may institute action in its own name, for the benefit of the state, on the bond supporting the permit. If the cancellation or conviction is proved, the court shall render judgment in favor of the commission for all fines, costs, and 15 percent of the face value of the bond.

(b) If a permittee fails to seasonably remit any money due the state, the surety on his bond is liable for the amount of money due the state plus a penalty of 15 percent of the face value of the bond.

(c) A suit for the collection of any of the amounts specified in this section shall be brought in a court of competent jurisdiction in Travis County.

(d) Nothing in this code shall be construed as imposing on a surety a greater liability than the total amount of the bond less any portion of the bond which has been extinguished by a prior recovery.

Acts 1977, 65th Leg., p. 413, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.71. SURETY MAY TERMINATE LIABILITY. A surety under the bond of a permittee may terminate its liability by giving 30 days' written notice of termination, served personally or by registered mail on the principal and the commission. The surety is discharged from all liability under the bond for any act or omission of the principal occurring after the expiration of 30 days from the date the notice is served. If the principal fails to duly file a new bond in the same amount and with the same conditions as the original bond before the expiration of the 30-day period, his permit shall terminate when the 30-day period expires.

Acts 1977, 65th Leg., p. 414, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 11.72. DISCIPLINE FOR ACTIONS OF AGENT; RECORDS RETENTION. (a) The commission or administrator may suspend or revoke the permit of a person who is represented by an agent under Section 15.01, 35.01, or 36.01 or otherwise discipline the person based on an act or omission of the person's agent only if an individual employed by the person in a supervisory position:

(1) was directly involved in the act or omission of the agent;

(2) had notice or knowledge of the act or omission; or

(3) failed to take reasonable steps to prevent the act or omission.

(b) The holder of a permit who is represented by an agent shall maintain records relating to the agent's activities, including any representation agreement, employment records, or similar documents,

for not less than four years from the date the record is created.

Added by Acts 1999, 76th Leg., ch. 947, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 451 (S.B. 828), Sec. 1, eff. September 1, 2013.
Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. 1090), Sec. 6, eff. September 1, 2013.
Reenacted and amended by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 2.001, eff. September 1, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 54, eff. September 1, 2019.

Sec. 11.73. AFFIRMATION OF COMPLIANCE. A person who holds a permit under Chapter 19, 20, or 23 may not be subject to an administrative sanction for selling or delivering an alcoholic beverage to a retailer not authorized to purchase and receive the alcoholic beverage if the permit holder:

(1) reasonably believes that the retailer is authorized to purchase and receive that type of alcoholic beverage; and

(2) obtains from the retailer at the time of delivery a written affirmation, which may be printed or stamped on a sales invoice evidencing the sale or delivery of alcoholic beverages by the permit holder, that the retailer is authorized to purchase and receive the type of alcoholic beverage sold and delivered by the permit holder.

Added by Acts 1999, 76th Leg., ch. 577, Sec. 1, eff. Sept. 1, 1999.
Renumbered from Sec. 11.72 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(4), eff. Sept. 1, 2001.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 55, eff. September 1, 2019.

Text of chapter effective until September 1, 2021

CHAPTER 12. BREWER'S PERMIT

Text of section effective until September 1, 2021

Sec. 12.01. AUTHORIZED ACTIVITIES. (a) The holder of a brewer's permit may:

(1) manufacture, bottle, package, and label malt liquor;

(2) import ale and malt liquor acquired from a holder of a nonresident brewer's permit;

(3) sell the ale and malt liquor only to wholesale permit holders in this state or to qualified persons outside the state;

(4) dispense ale and malt liquor for consumption on the premises;

(5) conduct samplings of ale or malt liquor, including tastings, at a retailer's premises; and

(6) enter into an alternating brewery proprietorship or contract brewing arrangement as provided by Section 12.06.

(b) An agent or employee of the holder of a brewer's permit may open, touch, or pour ale or malt liquor, make a presentation, or answer questions at a sampling event.

Acts 1977, 65th Leg., p. 414, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1995, 74th Leg., ch. 812, Sec. 1, eff. Aug. 28, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1073 (H.B. 2723), Sec. 1, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1074 (H.B. 3307), Sec. 2, eff. September 1, 2013.

Repealed by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(a)(1), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 12.015. IMPORTATION OF ALE AND MALT LIQUOR FOR MANUFACTURE. (a) The holder of a brewer's permit may:

(1) import ale and malt liquor for manufacturing purposes from a holder of a nonresident brewer's permit; and

(2) mix and blend ale and malt liquor imported under Subdivision (1) and bottle and sell the resultant product.

(b) The state tax on ale and malt liquor imported for manufacturing purposes does not accrue until:

(1) the ale or malt liquor has been used for manufacturing purposes; and

(2) the resultant product has been placed in containers for

sale.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 56(a), eff. September 1, 2019.
Repealed by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(a)(1), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 12.02. FEE. The annual state fee for a brewer's permit is $1,500.

Acts 1977, 65th Leg., p. 414, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1342, ch. 278, Sec. 3, eff. Sept. 1, 1983.
Repealed by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(a)(1), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 12.03. ALE OR MALT LIQUOR FOR EXPORT. Regardless of any other provision of this code, a holder of a brewer's permit may manufacture and package malt beverages, or import them from outside the state, for shipment out of the state, even though the alcohol content, containers, packages, or labels make the beverages illegal to sell within the state. The permittee may export the beverages out of the state or deliver them at his premises for shipment out of the state without being liable for any state tax on beer, ale, or malt liquor sold for resale in the state.

Acts 1977, 65th Leg., p. 414, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Repealed by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(a)(1), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 12.04. CONTINUANCE OF OPERATION AFTER LOCAL OPTION ELECTION. The right of a brewer's permittee to continue operation after a prohibitory local option election is covered by Section 251.75 of this code.

Acts 1977, 65th Leg., p. 414, ch. 194, Sec. 1, eff. Sept. 1, 1977. Repealed by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(a)(1), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 12.052. SALES BY CERTAIN BREWERS TO CONSUMERS. (a) In addition to the activities authorized by Section 12.01, the holder of a brewer's permit whose annual production of ale, together with the annual production of beer by the holder of a manufacturer's license at all premises wholly or partly owned, directly or indirectly, by the permit holder or an affiliate or subsidiary of the permit holder, does not exceed a total of 225,000 barrels may sell ale produced on the brewer's premises under the permit to ultimate consumers on the brewer's premises:

(1) for responsible consumption on the brewer's premises; or

(2) subject to Subsection (a-1), for off-premises consumption.

(a-1) Sales to a consumer on the brewer's premises for off-premises consumption are limited to 288 fluid ounces of beer and ale combined per calendar day.

(b) The total combined sales of ale to ultimate consumers under this section, together with the sales of beer to ultimate consumers by the holder of a manufacturer's license under Section 62.122 at the same premises, may not exceed 5,000 barrels annually.

(c) Subject to Subsections (b), (d), and (e), the holder of a brewer's permit may sell ale produced on the brewer's premises under the permit to ultimate consumers on the brewer's premises for responsible consumption on the brewer's premises even if the annual production limit prescribed by Subsection (a) is exceeded if:

(1) the permit holder:

(A) was legally operating a manufacturing facility with on-premise sales under Subsection (a) on February 1, 2017; or

(B) purchased an ownership interest in, or was purchased by the holder of, a permit or license issued under Chapter 12, 13, 62, or 63; and

(2) the permit holder has annual production that does not exceed 175,000 barrels at the brewer's premises.

(d) For purposes of Subsection (c)(1)(B), a permit holder may

not sell to a permit or license holder whose annual production exceeds the limit prescribed by Subsection (a) an ownership interest:

(1) of more than 25 percent in the permitted location; or

(2) that provides the purchaser with the ability to control the operations at the permitted location.

(e) A holder of a brewer's permit who under Subsection (c) sells ale produced on the brewer's premises under the permit to ultimate consumers on the brewer's premises for responsible consumption on the brewer's premises:

(1) shall file a territorial agreement with the commission under Subchapters C and D, Chapter 102;

(2) must purchase any ale the permit holder sells on the brewer's premises from the holder of a permit issued under Chapter 19, 20, or 21; and

(3) with respect to those purchases, must comply with the requirements of this code governing dealings between a distributor or wholesaler and a member of the retail tier, including Section 102.31.

(e-1) The commission:

(1) may require the holder of a brewer's permit who sells ale to ultimate consumers under this section to report to the commission each month, in the manner prescribed by the commission, the total amounts of ale sold by the permit holder under this section during the preceding month for:

(A) responsible consumption on the brewer's premises; and

(B) off-premises consumption, as authorized by Subsection (a);

(2) by rule shall adopt a simple form for a report required under Subdivision (1); and

(3) shall maintain reports received under this subsection for public review.

(f) The commission by rule or order shall annually adjust the production limit prescribed by Subsection (c)(2) in an amount that is equal to the percentage of the state's population growth for the previous year as determined by the state demographer under Chapter 468, Government Code.

(g) The commission may impose an administrative penalty against a permit holder who violates Subsection (a-1) or fails to comply with a requirement established by the commission under Subsection (e-1). The commission shall adopt rules establishing:

(1) the amount of an administrative penalty under this subsection; and

(2) the procedures for imposing an administrative penalty under this subsection.

Added by Acts 2013, 83rd Leg., R.S., Ch. 535 (S.B. 518), Sec. 2, eff. June 14, 2013.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 1129 (H.B. 3287), Sec. 2, eff. June 15, 2017.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 57, eff. September 1, 2019.
Repealed by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(a)(1), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 12.06. USE OF FACILITIES. (a) The holder of a brewer's or nonresident brewer's permit may contract with the holder of a brewer's permit:

(1) to provide brewing services; or

(2) for the use of the permit holder's brewing facilities under an alternating brewery proprietorship if each party to the proprietorship:

(A) has filed the appropriate Brewer's Notice and Brewer's Bond, as required by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury; and

(B) if applicable, has posted with the commission a bond in an amount determined by the commission under Subsection (e) or (f).

(b) An entity is not required to own its brewing facilities if the entity operates under an alternating brewery proprietorship as provided by Subsection (a).

(c) Each entity that is a party to an alternating brewery proprietorship or contract brewing arrangement must hold a permit at the location where brewing services are conducted under the arrangement.

(d) This section does not authorize a person acting as an agent for a brewery located outside of this state to contract with the holder of a brewer's permit to brew ale or malt liquor on the

person's behalf. A contract described by this subsection may only be entered into by the holder of a brewer's permit and another person holding a permit under this code.

(e) Subject to Subsection (f), the commission by rule may require an entity that is a party to an alternating brewery proprietorship or contract brewing arrangement to post with the commission a bond in an amount determined by the commission not to exceed $200,000.

(f) An entity that is a party to an alternating brewery proprietorship or contract brewing arrangement must post with the commission a bond in an amount determined by the commission of not less than $30,000 if the entity does not own a fee interest in a brewing facility.

Added by Acts 2005, 79th Leg., Ch. 1182 (S.B. 1255), Sec. 2, eff. June 18, 2005.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1074 (H.B. 3307), Sec. 3, eff. September 1, 2013.
Repealed by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(a)(1), eff. September 1, 2021.

Text of chapter effective until September 1, 2021

CHAPTER 12A. BREWER'S SELF-DISTRIBUTION PERMIT

Text of section effective until September 1, 2021

Sec. 12A.01. ELIGIBILITY FOR PERMIT. A brewer's self-distribution permit may be issued only to the holder of a brewer's permit under Chapter 12 or the holder of a nonresident brewer's permit under Chapter 13.

Added by Acts 2013, 83rd Leg., R.S., Ch. 533 (S.B. 516), Sec. 2, eff. June 14, 2013.

Text of section effective until September 1, 2021

Sec. 12A.02. AUTHORIZED ACTIVITIES. (a) A holder of a brewer's self-distribution permit whose annual production of ale under the brewer's or nonresident brewer's permit, together with the annual production of beer by the holder of a manufacturer's or

nonresident manufacturer's license at all premises owned directly or indirectly by the permit holder or an affiliate or subsidiary of the permit holder, does not exceed 125,000 barrels may sell ale produced under the brewer's or nonresident brewer's permit to those persons to whom the holder of a general class B wholesaler's permit may sell ale under Section 20.01(3).

(b) The total combined sales of ale under this section, together with the sales of beer by the holder of a manufacturer's self-distribution license under Section 62A.02 at all premises owned directly or indirectly by the permit holder or an affiliate or subsidiary of the permit holder, may not exceed 40,000 barrels annually.

(c) With regard to a sale under this section, the holder of a brewer's self-distribution permit has the same authority and is subject to the same requirements that apply to a sale made by the holder of a general class B wholesaler's permit.

(d) Ale sold under this section may be shipped only from a brewery in this state.

Added by Acts 2013, 83rd Leg., R.S., Ch. 533 (S.B. 516), Sec. 2, eff. June 14, 2013.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 1129 (H.B. 3287), Sec. 3, eff. June 15, 2017.

Text of section effective until September 1, 2021

Sec. 12A.03. FEE. The annual state fee for a brewer's self-distribution permit is $250.

Added by Acts 2013, 83rd Leg., R.S., Ch. 533 (S.B. 516), Sec. 2, eff. June 14, 2013.

Text of section effective until September 1, 2021

Sec. 12A.04. REPORT OF SALES TO RETAILERS. (a) Not later than the 15th day of each month, the holder of a brewer's self-distribution permit shall file a report with the commission that contains information relating to the sales made by the permit holder to a retailer during the preceding calendar month.

(b) The commission shall by rule determine the information that is required to be reported under this section and the manner in which the report must be submitted to the commission. The commission may require the report to contain the same information reported to the comptroller under Section 151.462, Tax Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 533 (S.B. 516), Sec. 2, eff. June 14, 2013.

Text of chapter effective until September 1, 2021

CHAPTER 13. NONRESIDENT BREWER'S PERMIT

Text of section effective until September 1, 2021

Sec. 13.01. PERMIT REQUIRED. A nonresident brewer's permit is required for any brewer located outside the state before his ale or malt liquor may be imported into Texas or offered for sale in Texas.

Acts 1977, 65th Leg., p. 415, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 13.02. FEE. The annual state fee for a nonresident brewer's permit is $1,500.

Acts 1977, 65th Leg., p. 415, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 1342, ch. 278, Sec. 4 eff. Sept. 1, 1983.

Text of section effective until September 1, 2021

Sec. 13.03. NONRESIDENT SELLER'S PERMIT REQUIRED. The holder of a nonresident brewer's permit is also required to hold a nonresident seller's permit.

Acts 1977, 65th Leg., p. 415, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 13.04. USE OF FACILITIES. (a) The holder of a brewer's

or nonresident brewer's permit may contract with the holder of a nonresident brewer's permit:

(1) to provide brewing services; or

(2) for the use of the permit holder's brewing facilities under an alternating brewery proprietorship if each party to the proprietorship:

(A) has filed the appropriate Brewer's Notice and Brewer's Bond as required by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury; and

(B) if applicable, has posted with the commission a bond in an amount determined by the commission under Subsection (e) or (f).

(b) An entity is not required to own its brewing facilities if the entity operates under an alternating brewery proprietorship as provided by Subsection (a).

(c) Each entity that is a party to an alternating brewery proprietorship or contract brewing arrangement must hold a permit at the location where brewing services are conducted under the arrangement.

(d) This section does not authorize a person acting as an agent for a brewery located outside of this state to contract with the holder of a nonresident brewer's permit to brew ale or malt liquor on the person's behalf. A contract described by this subsection may only be entered into by the holder of a nonresident brewer's permit and another person holding a permit under this code.

(e) Subject to Subsection (f), the commission by rule may require an entity that is a party to an alternating brewery proprietorship or contract brewing arrangement to post with the commission a bond in an amount determined by the commission not to exceed $200,000.

(f) An entity that is a party to an alternating brewery proprietorship or contract brewing arrangement must post with the commission a bond in an amount determined by the commission of not less than $30,000 if the entity does not own a fee interest in a brewing facility.

Added by Acts 2005, 79th Leg., Ch. 1182 (S.B. 1255), Sec. 3, eff. June 18, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1074 (H.B. 3307), Sec. 4, eff.

September 1, 2013.

CHAPTER 14. DISTILLER'S AND RECTIFIER'S PERMIT

Sec. 14.01. AUTHORIZED ACTIVITIES. (a) The holder of a distiller's and rectifier's permit may:

(1) manufacture distilled spirits;

(2) rectify, purify, and refine distilled spirits and wines;

(3) mix wines, distilled spirits, or other liquors;

(4) bottle, label, and package the permit holder's finished products;

(5) sell the finished products in this state to holders of wholesaler's permits and to qualified persons outside the state;

(6) purchase distilled spirits, to be used only for manufacturing or rectification purposes, from holders of nonresident seller's permits or distiller's and rectifier's permits;

(7) dispense free distilled spirits for consumption on the permitted premises under Section 14.04;

(8) sell bulk alcohol produced by the permit holder for purposes described by Section 38.01; and

(9) sell distilled spirits to ultimate consumers under Section 14.04 or 14.05.

(b) The privileges granted to a distiller and rectifier are confined strictly to distilled spirits and wines manufactured and rectified under his permit.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 106, Sec. 6, eff. September 1, 2013.

Acts 1977, 65th Leg., p. 415, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1342, ch. 278, Sec. 5, eff. Sept. 1, 1983.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 31 (H.B. 1974), Sec. 1, eff. May 13, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 106 (S.B. 905), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 106 (S.B. 905), Sec. 6, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 195 (S.B. 642), Sec. 1, eff.

September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1171 (S.B. 652), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 611 (S.B. 808), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 2.002, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 58, eff. September 1, 2019.

Text of section effective until September 1, 2021

Sec. 14.02. FEE. The annual state fee for a distiller's and rectifier's permit is $1,500.

Acts 1977, 65th Leg., p. 415, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1342, ch. 278, Sec. 5, eff. Sept. 1, 1983.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(1), eff. September 1, 2021.

Sec. 14.03. CONTINUANCE OF OPERATION AFTER LOCAL OPTION ELECTION. The right of a distiller's and rectifier's permittee to continue in operation after a prohibitory local option election is covered by Section 251.76 of this code.

Acts 1977, 65th Leg., p. 415, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1342, ch. 278, Sec. 5, eff. Sept. 1, 1983.

Sec. 14.04. DISTILLED SPIRITS SAMPLING. (a) The holder of a distiller's and rectifier's permit may conduct distilled spirits samplings on the permitted premises. The permit holder may:

(1) dispense free samples; or

(2) if the permitted premises is located in an area where the sale of alcoholic beverages is legal as provided by a ballot issue approved by the voters under Section 501.035(b)(7), (8), or

(9), Election Code, collect a fee for the sampling.

(b) A sampling event authorized by this section may not be advertised except by on-site communication or by direct mail.

(c) A person other than the holder of a permit or the holder's agent or employee may not dispense or participate in the dispensing of distilled spirits under this section.

(d) A person authorized to dispense distilled spirits under this section may not:

(1) serve a person more than one sample of each brand of distilled spirits being served at a sampling event; or

(2) serve a sample to a minor or to an obviously intoxicated person.

(e) Sample portions served at a distilled spirits sampling event may not exceed one-half ounce.

(f) A person who receives a sample may not remove the sample from the permitted premises.

(g) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 106, Sec. 6, eff. September 1, 2013.

Added by Acts 2009, 81st Leg., R.S., Ch. 31 (H.B. 1974), Sec. 2, eff. May 13, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 106 (S.B. 905), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 106 (S.B. 905), Sec. 6, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 611 (S.B. 808), Sec. 2, eff. September 1, 2015.

Sec. 14.05. SALES TO ULTIMATE CONSUMERS. (a) The holder of a distiller's and rectifier's permit whose permitted premises is located in an area where the sale of alcoholic beverages is legal as provided by a ballot issue approved by the voters under Section 501.035(b)(7), (8), or (9), Election Code, may sell to ultimate consumers for consumption on the permitted premises distilled spirits manufactured or rectified by the permit holder in an amount not to exceed 3,000 gallons annually.

(b) The holder of a distiller's and rectifier's permit may sell distilled spirits manufactured by the permit holder to ultimate

consumers for off-premises consumption in unbroken packages containing not more than 750 milliliters of distilled spirits for off-premises consumption in an amount not to exceed 3,500 gallons annually if:

(1) for a permit issued on or after September 1, 2013, the permitted premises is located in an area where the sale of alcoholic beverages is legal as provided by a ballot issue approved by the voters under Section 501.035(b)(5), (6), or (7), Election Code; or

(2) for a permit issued before September 1, 2013, the permitted premises is located in an area where the sale of alcoholic beverages is legal as provided by a ballot issue approved by the voters under Section 501.035(b)(5), (6), (7), (8), or (9), Election Code.

(c) The holder of a distiller's and rectifier's permit may not under Subsection (b) sell more than two 750 milliliter bottles of distilled spirits or the equivalent to the same consumer within a 30-day period.

(d) A sale under Subsection (b):

(1) may be made only to an individual who is physically present at the permit holder's premises; and

(2) must be delivered to the purchaser in person during the purchaser's visit.

(e) A person may not make a purchase under Subsection (b) as an agent for another person.

(f) The permit holder must check a purchaser's identification and keep records of purchases in a manner that enables the permit holder to comply with this section.

(g) A bottle of distilled spirits sold on the permit holder's premises under Subsection (b) must bear a notice affixed to the bottle that:

(1) does not obscure the label approved by the Alcohol and Tobacco Tax and Trade Bureau;

(2) states that the bottle is commemorative;

(3) states the month and year the bottle is sold; and

(4) is signed by an agent of the permit holder.

Added by Acts 2013, 83rd Leg., R.S., Ch. 106 (S.B. 905), Sec. 3, eff. September 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 611 (S.B. 808), Sec. 3, eff.

September 1, 2015.

Sec. 14.06. REPORT OF CERTAIN SALES. A holder of a distiller's and rectifier's permit who sells distilled spirits under Section 14.01(a)(8) shall keep records of those sales in a manner prescribed by the commission or administrator.

Added by Acts 2013, 83rd Leg., R.S., Ch. 195 (S.B. 642), Sec. 2, eff. September 1, 2013.
Redesignated from Alcoholic Beverage Code, Section 14.05 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(2), eff. September 1, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 59, eff. September 1, 2019.

Text of section as added by Acts 2019, 86th Leg., R.S., Ch. 792 (H.B. 1997), Sec. 1

For text of section as added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 60, see other Sec. 14.07.

Sec. 14.07. RETAILER SAMPLING. (a) Subject to this section and notwithstanding any other provision of this code, the holder of a distiller's and rectifier's permit or the agent or employee of the holder of a distiller's and rectifier's permit may:

(1) provide a sample of distilled spirits to the holder of a retail permit authorizing the sale of distilled spirits or an agent or employee of the holder of the retail permit; or

(2) provide a distilled spirits product tasting on the retailer's premises, including the opening, touching, or pouring of distilled spirits, for the holder of the retail permit or an agent or employee of the holder of the retail permit.

(b) The holder of the distiller's and rectifier's permit or the agent or employee of the holder of the distiller's and rectifier's permit may make a presentation or answer questions at a distilled spirits tasting provided under Subsection (a).

(c) The holder of a retail permit authorizing the sale of distilled spirits or an agent or employee of the permit holder may not sample or taste a distilled spirit provided under this section on

the permitted retail premises unless:

(1) the holder of the distiller's and rectifier's permit is present; or

(2) an agent or employee of the holder of the distiller's and rectifier's permit is present.

(d) The distilled spirits provided as a sample or at a tasting under Subsection (a):

(1) must be manufactured by the holder of the distiller's and rectifier's permit;

(2) may not be of a brand previously purchased by the holder of the retailer's permit unless the spirits were purchased and used for educational or training purposes;

(3) must be limited to 750 milliliters of each brand provided as a sample or at a tasting; and

(4) must meet all labeling requirements of this code.

(e) Distilled spirits may legally be transported by the holder of the distiller's and rectifier's permit or the permit holder's agent or employee to a retail premises for the purpose of providing a sample or a tasting under this section.

(f) The cost of the distilled spirits provided for a sampling or tasting under this section is the responsibility of the holder of the distiller's and rectifier's permit providing the sampling or tasting.

(g) The holder of a distiller's and rectifier's permit or the agent or employee of the holder of a distiller's and rectifier's permit may not negotiate price or establish agreements while providing samples or tastings under this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 792 (H.B. 1997), Sec. 1, eff. September 1, 2019.

Text of section as added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 60

For text of section as added by Acts 2019, 86th Leg., R.S., Ch. 792 (H.B. 1997), Sec. 1, see other Sec. 14.07.

Text of section effective on September 1, 2021

Sec. 14.07. TRANSPORTING LIQUOR. (a) The holder of a distiller's and rectifier's permit may transport liquor, if the

transportation is for a lawful purpose, from:

(1) the place of purchase to the holder's place of business; and

(2) the place of sale or distribution to the purchaser.

(b) The holder of a distiller's and rectifier's permit may transport liquor from one wet area to another wet area across a dry area if that course of transportation is necessary or convenient.

(c) The holder of a distiller's and rectifier's permit transporting liquor under this section shall provide to the commission:

(1) a full description of each motor vehicle used by the permit holder for transporting liquor; and

(2) any other information the commission requires.

(d) The holder of a distiller's and rectifier's permit may transport liquor only in a vehicle that is:

(1) described by Subsection (c)(1);

(2) owned or leased in good faith by the permit holder or by the permit holder's agent; and

(3) printed or painted with the designation required by the commission.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 60, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 14.08. STORAGE. (a) The holder of a distiller's and rectifier's permit may store liquor:

(1) on the permit holder's premises; or

(2) inside the county in which the permit holder's business is located in a:

(A) public bonded warehouse authorized to store liquor under Chapter 46; or

(B) private warehouse that is:

(i) owned or leased by the permit holder; and

(ii) operated by the permit holder.

(b) The holder of a distiller's and rectifier's permit may not store liquor in a dry area.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 61,

eff. September 1, 2021.

CHAPTER 15. DISTILLER'S AGENT

Sec. 15.01. AUTHORIZED ACTIVITIES. (a) A distiller's agent may:

(1) represent the holder of a distiller's and rectifier's permit;

(2) solicit and take orders from a holder of a wholesaler's permit for the sale of distilled spirits manufactured by the permit holder represented by the agent;

(3) conduct free distilled spirits tastings for consumers on the premises of the holder of a package store permit; and

(4) provide samples or tastings of distilled spirits on a retailer's premises in accordance with Section 14.07.

(b) A person acting as an agent may only represent one permitted or licensed business at a time while soliciting or taking orders.

Added by Acts 2013, 83rd Leg., R.S., Ch. 451 (S.B. 828), Sec. 2, eff. September 1, 2013.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 792 (H.B. 1997), Sec. 2, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 63, eff. September 1, 2019.

Sec. 15.04. SOLICITATION FROM HOLDER OF MIXED BEVERAGE OR PRIVATE CLUB PERMIT. A distiller's agent may not solicit business directly or indirectly from a holder of a mixed beverage permit or a private club registration permit unless the distiller's agent is accompanied by the holder of a wholesaler's permit or the wholesaler's agent.

Added by Acts 2013, 83rd Leg., R.S., Ch. 451 (S.B. 828), Sec. 2, eff. September 1, 2013.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 64, eff. September 1, 2019.

Sec. 15.05. UNAUTHORIZED REPRESENTATION. A distiller's agent in soliciting or taking orders for the sale of liquor may not represent that the agent is an agent of any person other than the person who employs the agent or who has authorized the agent to represent the person.

Added by Acts 2013, 83rd Leg., R.S., Ch. 451 (S.B. 828), Sec. 2, eff. September 1, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 65, eff. September 1, 2019.

CHAPTER 16. WINERY PERMIT

Sec. 16.01. AUTHORIZED ACTIVITIES. (a) Except as provided by Section 16.011, the holder of a winery permit may:

(1) manufacture, bottle, label, and package wine containing not more than 24 percent alcohol by volume;

(2) manufacture fruit brandy and:

(A) use that brandy on the winery permit holder's permitted premises for fortifying purposes only; or

(B) sell that brandy to other winery permit holders;

(3) import or buy fruit brandy from a permit holder authorized to manufacture fruit brandy and use that brandy on the winery permit holder's permitted premises for fortifying purposes only;

(4) sell wine in this state to or buy wine from permit holders authorized to purchase and sell wine, including holders of wholesaler's permits and winery permits;

(5) sell wine to ultimate consumers:

(A) for consumption on the winery premises; or

(B) in unbroken packages for off-premises consumption in an amount not to exceed 35,000 gallons annually;

(6) sell the wine outside this state to qualified persons;

(7) blend wines;

(8) dispense free wine for consumption on the winery premises; and

(9) purchase and import wine from the holder of a nonresident seller's permit.

(b) The holder of a winery permit may manufacture and label

wine for an adult in an amount not to exceed 50 gallons annually for the personal use of the adult. Any amount of wine produced under this subsection is included in the annual total amount that may be sold by the holder under Subsection (a)(5). An adult for whom wine is manufactured and labeled under this subsection is not required to hold a license or permit issued under this code.

(c) The holder of a winery permit may conduct wine samplings, including wine tastings at a retailer's premises. A winery employee may open, touch, or pour wine, make a presentation, or answer questions at a wine sampling.

Without reference to the amendment of subsec. (d) by Acts 2003, 78th Leg., ch. 1051, Sec. 1, Acts 2003, 78th Leg., ch. 1119, Sec. 3 repealed subsec. (d)

(d) The holder of a winery permit may sell wine to ultimate consumers for consumption on or off winery premises and dispense free wine for consumption on or off the winery premises.

(e) The holder of a winery permit may dispense wine for consumption on the premises of the winery under Section 16.07.

Acts 1977, 65th Leg., p. 416, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2116, ch. 819, Sec. 1, eff. June 13, 1979; Acts 1981, 67th Leg., p. 2212, ch. 515, Sec. 1, eff. Aug. 31, 1981; Acts 1993, 73rd Leg., ch. 934, Sec. 27, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 998, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1257, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1051, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1119, Sec. 1, 3, eff. Sept. 13, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 275 (S.B. 529), Sec. 1, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. 1090), Sec. 7, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 66, eff. September 1, 2019.

Sec. 16.011. PREMISES IN DRY AREA. A winery permit may be issued for premises in an area in which the sale of wine has not been authorized by a local option election. A holder of a permit under this section may engage in any activity authorized under Section

16.01 except that the permit holder may sell or dispense wine under that section only if the wine is:

(1) bottled in this state; and

(2) at least 75 percent by volume fermented juice of grapes or other fruit grown in this state or a lesser percentage established by the commissioner of agriculture under Section 12.039, Agriculture Code.

Added by Acts 2003, 78th Leg., ch. 1119, Sec. 2., eff. Sept. 13, 2003
Amended by:
Acts 2005, 79th Leg., Ch. 878 (S.B. 1137), Sec. 3, eff. June 17, 2005.

Text of section effective until September 1, 2021

Sec. 16.02. FEE. The annual state fee for a winery permit is $75.

Acts 1977, 65th Leg., p. 416, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 2116, ch. 819, Sec. 1, eff. June 13, 1979; Acts 1983, 68th Leg., p. 1343, ch. 278, Sec. 6, eff. Sept. 1, 1983.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(2), eff. September 1, 2021.

Sec. 16.03. IMPORTATION FOR BLENDING. The holder of a winery permit may, for blending purposes, import wines or grape brandy. The wine or grape brandy may be purchased only from the holders of nonresident seller's permits. The state tax on wines imported for blending purposes does not accrue until the wine has been used for blending purposes and the resultant product placed in containers for sale.

Acts 1977, 65th Leg., p. 416, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 2116, ch. 819, Sec. 1, eff. June 13, 1979.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. 1090), Sec. 8, eff. September 1, 2013.

Sec. 16.04. FEDERAL PERMIT REQUIRED. A winery permit may be granted only on presentation of an appropriate federal wine permit.

Acts 1977, 65th Leg., p. 416, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 2116, ch. 819, Sec. 1, eff. June 13, 1979.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 67, eff. September 1, 2019.

Sec. 16.05. OPERATING AGREEMENTS BETWEEN PERMIT HOLDERS. (a) The holder of a winery permit may engage in any activity authorized by that permit on the permitted premises of another winery permit holder under an agreement between the permit holders that is approved by the commission and that describes with specificity the nature, duration, and extent of the activities authorized by the agreement.

(b) The commission shall adopt rules regulating the shared use of winery premises under this section to ensure administrative accountability of each permit holder and a strict separation between the businesses and operations of the permit holders.

Added by Acts 2005, 79th Leg., Ch. 878 (S.B. 1137), Sec. 4, eff. June 17, 2005.

Sec. 16.06. PARTICIPATION IN CERTAIN OFF-PREMISES WINE EVALUATION ACTIVITIES. (a) For the purpose of participating in an organized wine tasting, wine evaluation, wine competition, or literary review, the holder of a winery permit may deliver wine produced and manufactured by the holder to locations that are not licensed under this code for the purpose of submitting the wine to an evaluation at an organized wine tasting competition attended primarily by unlicensed persons or by a wine reviewer whose reviews are published if:

(1) no charge of any kind is made for the wine, delivery, or attendance at the event; and

(2) the commission consents in writing to the delivery.

(b) In connection with events authorized by Subsection (a) of

this section, the holder of the winery permit may dispense wine to individuals attending the event and discuss with them the manufacture and characteristics of the wine.

Added by Acts 1989, 71st Leg., ch. 142, Sec. 1, eff. May 25, 1989.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 3.001, eff. September 1, 2009.

Sec. 16.07. WINE SAMPLING. (a) The holder of a winery permit may conduct wine samplings, including wine tastings, on the permitted premises. The holder of the permit may collect a fee for the wine sampling.

(b) A sampling event authorized by this section may not be advertised except by on-site communication or by direct mail.

(c) A person other than the holder of a permit or the holder's agent or employee may not dispense or participate in the dispensing of wine under this section.

(d) A person authorized to dispense wine under this section:

(1) may serve a person more than one sample; and

(2) may not serve a sample to a minor or to an obviously intoxicated person.

(e) A person who receives a sample may not remove the sample from the permitted premises.

(f) For the purposes of this code and any other law of this state or a political subdivision of this state, the holder of a permit, during the sampling of wine under this section, is:

(1) not the holder of a permit authorizing the sale of alcoholic beverages for on-premises consumption; and

(2) not considered to have received any revenue from the on-premises sale of alcoholic beverages.

Added by Acts 1997, 75th Leg., ch. 998, Sec. 2, eff. Sept. 1, 1997.

Sec. 16.08. WINE FESTIVALS. (a) At an event that is approved by the commission, organized to celebrate and promote the wine industry in this state, and held in whole or in part on the premises of the holder of a winery permit, the permit holder may:

(1) sell wine to consumers for consumption on or off the

holder's premises; and

(2) dispense wine without charge for consumption on or off the holder's premises.

Text of subsection effective until September 1, 2021

(b) The holder of a winery permit may sell wine to the holder of a temporary permit issued under Chapter 27, 30, or 33 for an event that is approved by the commission and organized to celebrate and promote the wine industry in this state.

Text of subsection effective on September 1, 2021

(b) The holder of a winery permit may sell wine to the holder of a wine and malt beverage retailer's permit, mixed beverage permit, private club permit, or nonprofit entity temporary event permit for an event that is approved by the commission and organized to celebrate and promote the wine industry in this state.

(c) Repealed by Acts 2005, 79th Leg., Ch. 878, Sec. 10(1), eff. June 17, 2005.

Added by Acts 2001, 77th Leg., ch. 1001, Sec. 2.02, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 878 (S.B. 1137), Sec. 10(1), eff. June 17, 2005.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 68, eff. September 1, 2021.

Sec. 16.09. DIRECT SHIPMENT TO CONSUMERS. (a) The holder of a winery permit may ship wine to the ultimate consumer, including ultimate consumers located in dry areas. Delivery must be by the holder of a carrier permit.

(b) All wine shipped to an ultimate consumer by the holder of a winery permit must be in a package that is clearly and conspicuously labeled showing that:

(1) the package contains wine; and

(2) the package may be delivered only to a person described in Subsection (c).

(c) Wine shipped by the holder of a winery permit may not be delivered to any person other than:

(1) the person who purchased the wine;

(2) a recipient designated in advance by such purchaser; or

(3) a person at the delivery address who is age 21 or over.

(d) Wine may be delivered only to a person who is age 21 or over after the person accepting the package:

(1) presents valid proof of identity and age; and

(2) personally signs a receipt acknowledging delivery of the package.

(e) The holder of a winery permit may not:

(1) sell or ship wine to a minor;

(2) deliver wine to a consumer using a carrier that does not hold a carrier's permit under this code; or

(3) deliver to the same consumer in this state more than nine gallons of wine within any calendar month or more than 36 gallons of wine within any 12-month period.

Added by Acts 2005, 79th Leg., Ch. 36 (S.B. 877), Sec. 1, eff. May 9, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 346 (H.B. 1084), Sec. 1, eff. September 1, 2009.

Text of section effective on September 1, 2021

Sec. 16.10. TRANSPORTING WINE. (a) The holder of a winery permit may transport wine, if the transportation is for a lawful purpose, from:

(1) the place of purchase to the holder's place of business; and

(2) the place of sale or distribution to the purchaser.

(b) The holder of a winery permit may transport wine from one wet area to another wet area across a dry area if that course of transportation is necessary or convenient.

(c) The holder of a winery permit may transport wine only in a vehicle that is owned or leased in good faith by the permit holder or by the permit holder's agent.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 69, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 16.11. STORAGE. (a) The holder of a winery permit may store wine:

(1) on the permit holder's premises; or

(2) inside or outside the county in which the permit holder's business is located in a:

(A) public bonded warehouse that is authorized to store liquor under Chapter 46; or

(B) private warehouse that is:

(i) owned or leased by the permit holder; and

(ii) operated by the permit holder.

(b) The holder of a winery permit whose winery is located in a county all or part of which is in a dry area may store the winery's product in a dry area of that county if the product to be stored is owned by the permit holder and remains in the permit holder's possession.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 70, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 16.12. SALES AT TEMPORARY LOCATION. (a) The holder of a winery permit may sell wine at a civic or wine festival, farmers' market, celebration, or similar event.

(b) The holder of a winery permit may not offer wine for sale under this section on more than four consecutive days at the same location.

(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 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 under this section;

(3) detail the circumstances when a permit holder may temporarily sell wine under this section with just a notification to the commission and the circumstances that require the commission's preapproval before a permit holder may temporarily sell wine under this section; and

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

(d) The provisions of this code applicable to the sale of wine on the permitted premises of the holder of a winery permit apply to the sale of wine under this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 71, eff. September 1, 2021.

Text of chapter effective until September 1, 2021

CHAPTER 17. WINERY FESTIVAL PERMIT

Text of section effective until September 1, 2021

Sec. 17.01. AUTHORIZED ACTIVITIES. (a) The holder of a winery festival permit may sell wine at a civic or wine festival, farmers' market, celebration, or similar event.

(b) The holder of a winery festival permit may not offer wine for sale under this chapter on more than four consecutive days at the same location.

Added by Acts 2009, 81st Leg., R.S., Ch. 1366 (S.B. 711), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 893 (S.B. 438), Sec. 1, eff. June 17, 2011.

Text of section effective until September 1, 2021

Sec. 17.02. QUALIFICATION FOR PERMIT. A winery festival permit may be issued only to the holder of a winery permit.

Added by Acts 2009, 81st Leg., R.S., Ch. 1366 (S.B. 711), Sec. 1, eff. September 1, 2009.

Text of section effective until September 1, 2021

Sec. 17.03. NOTICE OF SALES; PROCEDURES. (a) Before the holder of a winery festival permit offers wine for sale under this chapter, the permit holder must, in accordance with any rules adopted

or procedures established by the commission, notify the commission of the date on which and location where the permit holder will offer wine for sale under this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 1366 (S.B. 711), Sec. 1, eff. September 1, 2009.

Text of section effective until September 1, 2021

Sec. 17.04. PERMIT FEE. The fee for a winery festival permit is $50.

Added by Acts 2009, 81st Leg., R.S., Ch. 1366 (S.B. 711), Sec. 1, eff. September 1, 2009.

Text of section effective until September 1, 2021

Sec. 17.05. APPLICABILITY OF OTHER LAW. (a) The provisions of this code applicable to the sale of wine on the permitted premises of the holder of a winery permit apply to the sale of wine under this chapter.

(b) The winery permit of the holder of a winery festival permit may be canceled or suspended for a violation occurring in connection with activities conducted under this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 1366 (S.B. 711), Sec. 1, eff. September 1, 2009.

CHAPTER 19. WHOLESALER'S PERMIT

Text of section effective until September 1, 2021

Sec. 19.01. AUTHORIZED ACTIVITIES. The holder of a wholesaler's permit may:

(1) purchase and import liquor from distillers, brewers, wineries, rectifiers, and manufacturers who are holders of nonresident seller's permits or from their agents;

(2) purchase liquor from other wholesalers in the state;

(3) sell liquor in the original containers in which it is received to retailers and wholesalers in this state authorized to sell the liquor;

(4) sell liquor to qualified persons outside the state; and

(5) sell ale and malt liquor to a holder of a private club registration permit.

Acts 1977, 65th Leg., p. 417, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 3 (S.B. 731), Sec. 1, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 72(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 72(b), eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 19.01. AUTHORIZED ACTIVITIES. The holder of a wholesaler's permit may:

(1) purchase and import liquor from distillers, wineries, and rectifiers who are holders of nonresident seller's permits or from their agents;

(2) purchase liquor from other wholesalers in the state;

(3) sell liquor in the original containers in which it is received to retailers and wholesalers in this state authorized to sell the liquor; and

(4) sell liquor to qualified persons outside the state.

Acts 1977, 65th Leg., p. 417, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 3 (S.B. 731), Sec. 1, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 72(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 72(b), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 19.02. FEE. The annual state fee for a wholesaler's permit is $1,875.

Acts 1977, 65th Leg., p. 418, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1343, ch. 278, Sec. 8, eff. Sept. 1, 1983.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(3), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 19.03. PROMOTIONAL ACTIVITIES. The holder of a wholesaler's permit or his agent may enter the licensed premises of a mixed beverage permittee or private club registration permittee to determine the brands offered for sale and suggest or promote the sale of other brands, to the extent authorized by Section 102.07 of this code. The holder or his agent may not accept a direct order from a mixed beverage permittee except for wine or malt liquor.

Acts 1977, 65th Leg., p. 418, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 73, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 19.03. PROMOTIONAL ACTIVITIES. The holder of a wholesaler's permit or the permittee's agent may enter the licensed premises of a mixed beverage permittee or private club registration permittee to determine the brands offered for sale and suggest or promote the sale of other brands, to the extent authorized by Section 102.07. The holder of a wholesaler's permit or the permittee's agent may not accept a direct order from a mixed beverage permittee except for wine.

Acts 1977, 65th Leg., p. 418, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 73, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 19.04. MINIATURE CONTAINERS. In addition to other authorized containers, a wholesaler's permittee may import, sell, offer for sale, and possess for the purpose of resale distilled spirits, wine, and vinous liquors in containers of not less than one ounce nor more than two ounces. Liquor in containers of that size may be sold to:

(1) package store permittees for resale to airline beverage permittees, as provided in Section 34.05 of this code; and

(2) local distributor's permittees.

Acts 1977, 65th Leg., p. 418, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 74, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 19.04. MINIATURE CONTAINERS. In addition to other authorized containers, a wholesaler's permittee may import, sell, offer for sale, and possess for the purpose of resale distilled spirits, wine, and vinous liquors in containers of not less than one ounce nor more than two ounces. Liquor in containers of that size may be sold to:

(1) package store permittees for resale to certain passenger transportation permittees, as provided in Section 48.03; and

(2) local distributor's permittees.

Acts 1977, 65th Leg., p. 418, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 74, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 19.05. ALE AND MALT LIQUOR FOR EXPORT. (a) In this section "ale or malt liquor for export" means ale or malt liquor a wholesaler holds for export to another state in which the wholesaler has been assigned a territory for the distribution and sale of the ale or malt liquor. The term includes ale and malt liquor that is

illegal to sell in this state because of alcohol content, containers, packages, or labels.

(b) The holder of a wholesaler's permit who receives ale or malt liquor for export from the holder of a brewer's or nonresident brewer's permit may:

(1) store the ale or malt liquor for export at the wholesaler's premises;

(2) transport the ale or malt liquor for export outside the state in the wholesaler's own vehicles; or

(3) deliver the ale or malt liquor for export to a common carrier for export and delivery outside the state.

(c) The holder of a wholesaler's permit is not liable for any state tax on the ale or malt liquor for export.

(d) Section 101.67 does not apply to ale or malt liquor for export.

Added by Acts 2003, 78th Leg., ch. 489, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(a)(4), eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 19.06. TRANSPORTING LIQUOR. (a) The holder of a wholesaler's permit may transport liquor, if the transportation is for a lawful purpose, from:

(1) the place of purchase to the holder's place of business; and

(2) the place of sale or distribution to the purchaser.

(b) The holder of a wholesaler's permit may transport liquor from one wet area to another wet area across a dry area if that course of transportation is necessary or convenient.

(c) The holder of a wholesaler's permit transporting liquor under this section shall provide to the commission:

(1) a full description of each motor vehicle used by the permit holder for transporting liquor; and

(2) any other information the commission requires.

(d) The holder of a wholesaler's permit may transport liquor only in a vehicle that is:

(1) described by Subsection (c)(1);

(2) owned or leased in good faith by the permit holder or by the permit holder's agent; and

(3) printed or painted with the designation required by the commission.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 75, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 19.07. STORAGE. (a) The holder of a wholesaler's permit may store liquor:

(1) on the permit holder's premises; or

(2) inside the county in which the permit holder's business is located in a:

(A) public bonded warehouse authorized to store liquor under Chapter 46; or

(B) private warehouse that is:

(i) owned or leased by the permit holder; and

(ii) operated by the permit holder.

(b) The holder of a wholesaler's permit may not store liquor in a dry area.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 76, eff. September 1, 2021.

CHAPTER 20. GENERAL CLASS B WHOLESALER'S PERMIT

Text of section effective until September 1, 2021

Sec. 20.01. AUTHORIZED ACTIVITIES. The holder of a general class B wholesaler's permit may:

(1) purchase and import malt and vinous liquors from brewers, wineries, rectifiers, and wine manufacturers who are the holders of nonresident seller's permits or their agents;

(2) purchase malt and vinous liquors from holders of brewer's permits, holders of brewpub licenses, or other wholesalers in the state;

(3) sell the malt and vinous liquors in the original containers in which they are received to retailers and wholesalers authorized to sell them in this state, including holders of local

distributor's permits, mixed beverage permits, and daily temporary mixed beverage permits;

(4) sell the malt and vinous liquors to qualified persons outside the state; and

(5) sell ale and malt liquor to a holder of a private club registration permit.

Acts 1977, 65th Leg., p. 418, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 3 (S.B. 731), Sec. 2, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 750 (S.B. 515), Sec. 2, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 77(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 77(b), eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 20.01. AUTHORIZED ACTIVITIES. The holder of a general class B wholesaler's permit may:

(1) purchase and import vinous liquors from wineries, rectifiers, and wine manufacturers who are the holders of nonresident seller's permits or their agents;

(2) purchase vinous liquors from wholesalers in the state;

(3) sell the vinous liquors in the original containers in which they are received to retailers and wholesalers authorized to sell them in this state, including holders of local distributor's permits, mixed beverage permits, and certain nonprofit entity temporary event permits; and

(4) sell the vinous liquors to qualified persons outside the state.

Acts 1977, 65th Leg., p. 418, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 3 (S.B. 731), Sec. 2, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 750 (S.B. 515), Sec. 2, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 77(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 77(b), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 20.02. FEE. The annual state fee for a general class B wholesaler's permit is $300.

Acts 1977, 65th Leg., p. 418, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1344, ch. 278, Sec. 9, eff. Sept. 1, 1983.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(4), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 20.03. ALE AND MALT LIQUOR FOR EXPORT. (a) In this section "ale or malt liquor for export" means ale or malt liquor a wholesaler holds for export to another state in which the wholesaler has been assigned a territory for the distribution and sale of the ale or malt liquor. The term includes ale and malt liquor that is illegal to sell in this state because of alcohol content, containers, packages, or labels.

(b) The holder of a general class B wholesaler's permit who receives ale or malt liquor for export from the holder of a brewer's or nonresident brewer's permit may:

(1) store the ale or malt liquor for export at the wholesaler's premises;

(2) transport the ale or malt liquor for export outside the state in the wholesaler's own vehicles; or

(3) deliver the ale or malt liquor for export to a common carrier for export and delivery outside the state.

(c) The holder of a general class B wholesaler's permit is not liable for any state tax on the ale or malt liquor for export.

(d) Section 101.67 does not apply to ale or malt liquor for export.

Added by Acts 2003, 78th Leg., ch. 489, Sec. 2, eff. Sept. 1, 2003.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(a)(5), eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 20.04. TRANSPORTING LIQUOR. (a) The holder of a general class B wholesaler's permit may transport liquor, if the transportation is for a lawful purpose, from:

(1) the place of purchase to the holder's place of business; and

(2) the place of sale or distribution to the purchaser.

(b) The holder of a general class B wholesaler's permit may transport liquor from one wet area to another wet area across a dry area if that course of transportation is necessary or convenient.

(c) The holder of a general class B wholesaler's permit transporting liquor under this section shall provide to the commission:

(1) a full description of each motor vehicle used by the permit holder for transporting liquor; and

(2) any other information the commission requires.

(d) The holder of a general class B wholesaler's permit may transport liquor only in a vehicle that is:

(1) described by Subsection (c)(1);

(2) owned or leased in good faith by the permit holder or by the permit holder's agent; and

(3) printed or painted with the designation required by the commission.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 78, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 20.05. STORAGE. (a) The holder of a general class B wholesaler's permit may store liquor:

(1) on the permitted premises; or

(2) inside the county in which the permittee's business is located in a:

(A) public bonded warehouse authorized to store liquor under Chapter 46; or

(B) private warehouse that is:

(i) owned or leased by the permit holder; and

(ii) operated by the permit holder.

(b) The holder of a general class B wholesaler's permit may not store liquor in a dry area.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 79, eff. September 1, 2021.

CHAPTER 22. PACKAGE STORE PERMIT

Text of section effective until September 1, 2021

Sec. 22.01. AUTHORIZED ACTIVITIES. The holder of a package store permit may:

(1) purchase liquor in this state from the holder of a winery, wholesaler's, class B wholesaler's, or wine bottler's permit;

(2) sell liquor in unbroken original containers on or from his licensed premises at retail to consumers for off-premises consumption only and not for the purpose of resale, except that if the permittee is a hotel, the permittee may deliver unbroken packages of liquor to bona fide guests of the hotel in their rooms for consumption in their rooms;

(3) sell malt and vinous liquors in original containers of not less than six ounces; and

(4) sell liquor to holders of airline beverage permits as provided in Section 34.05 of this code.

Acts 1977, 65th Leg., p. 419, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 2117, ch. 819, Sec. 6, eff. June 13, 1979.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 80, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 22.01. AUTHORIZED ACTIVITIES. The holder of a package store permit may:

(1) purchase liquor in this state from the holder of a winery, wholesaler's, or class B wholesaler's permit;

(2) purchase malt beverages in this state from the holder of a general or branch distributor's license;

(3) sell liquor and malt beverages in unbroken original containers on or from the holder's licensed premises at retail to consumers for off-premises consumption only and not for the purpose of resale, except that if the permittee is a hotel, the permittee may deliver unbroken packages of liquor and malt beverages to bona fide guests of the hotel in their rooms for consumption in their rooms;

(4) sell vinous liquors in original containers of not less than six ounces; and

(5) sell liquor to holders of passenger transportation permits as provided in Section 48.03.

Acts 1977, 65th Leg., p. 419, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 2117, ch. 819, Sec. 6, eff. June 13, 1979.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 80, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 22.02. FEE. The annual state fee for a package store permit is $500.

Acts 1977, 65th Leg., p. 420, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1344, ch. 278, Sec. 11, eff. Sept. 1, 1983; Acts 1995, 74th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(5), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 22.03. DELIVERIES TO CUSTOMERS. (a) The holder of a package store permit or wine only package store permit issued for a location within a city or town or within two miles of the corporate

limits of a city or town, who also holds a local cartage permit, may make deliveries of and collections for alcoholic beverages off the premises in areas where the sale of the beverages is legal. The permittee must travel by the most direct route and may make deliveries and collections only within the county or the city or town or within two miles of its corporate limits, and only in response to bona fide orders placed by the customer, either in person at the premises, in writing, by mail, or by telegraph or telephone. This section shall not be construed as preventing a holder of a package store permit or wine only package store permit from delivering alcoholic beverages to the holder of a carrier's permit for transportation to persons who have placed bona fide orders and who are located in an area that the holder of a package store permit or wine only package store permit, who also holds a local cartage permit, is authorized to directly deliver to under this section. The holder of a package store permit or wine only package store permit may also deliver alcoholic beverages to the holder of a carrier's permit for transportation outside of this state in response to bona fide orders placed by persons authorized to purchase the beverages.

(b) The holder of a package store permit who also holds a local cartage permit may transport alcoholic beverages to a commercial airline in a regional airport located all or partly in an adjoining county if the airport is governed by a board, commission, or authority, some of whose members reside in the county where the package store is located.

Acts 1977, 65th Leg., p. 420, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 253 (S.B. 1229), Sec. 1, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 81, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 22.03. DELIVERIES TO CUSTOMERS. (a) The holder of a package store permit or wine only package store permit issued for a location within a city or town or within two miles of the corporate limits of a city or town may make deliveries of and collections for alcoholic beverages off the premises in areas where the sale of the

beverages is legal. The permittee must travel by the most direct route and may make deliveries and collections only within the county or the city or town or within two miles of its corporate limits, and only in response to bona fide orders placed by the customer, either in person at the premises, in writing, by mail, or by telegraph or telephone. This section shall not be construed as preventing a holder of a package store permit or wine only package store permit from delivering alcoholic beverages to the holder of a carrier's permit for transportation to persons who have placed bona fide orders and who are located in an area that the holder of a package store permit or wine only package store permit is authorized to directly deliver to under this section. The holder of a package store permit or wine only package store permit may also deliver alcoholic beverages to the holder of a carrier's permit for transportation outside of this state in response to bona fide orders placed by persons authorized to purchase the beverages.

(b) The holder of a package store permit may transport alcoholic beverages to a commercial airline in a regional airport located all or partly in an adjoining county if the airport is governed by a board, commission, or authority, some of whose members reside in the county where the package store is located.

Acts 1977, 65th Leg., p. 420, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 253 (S.B. 1229), Sec. 1, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 81, eff. September 1, 2021.

Sec. 22.04. LIMITATION ON PACKAGE STORE INTERESTS. (a) A person may not hold or have an interest, directly or indirectly, in more than 250 package stores or in their business or permit.

(b) For the purpose of this section:

(1) a person has an interest in any permit in which his spouse has an interest; and

(2) as to a corporate permittee, the stockholders, managers, officers, agents, servants, and employees of the corporation have an interest in the permit, business, and package stores of the corporation.

(c) Except as provided by Section 22.041, the commission may not issue more than 15 original package store permits to a person in a calendar year.

(d) This section does not apply to the stockholders, managers, officers, agents, servants, or employees of a corporation operating hotels, with respect to package stores operated by the corporation in hotels.

Acts 1977, 65th Leg., p. 420, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 82, eff. September 1, 2019.

Sec. 22.041. ACQUISITION OF EXISTING PACKAGE STORE BUSINESS. (a) The commission may issue an original package store permit to a person for an existing package store business if:

(1) the person acquired by purchase or otherwise the existing package store business; and

(2) the existing package store business has been operating in the same county for more than one year before the date the person acquired the package store business.

(b) A package store permit issued under this section is not subject to the permit limit under Section 22.04(c).

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 83, eff. September 1, 2019.

Sec. 22.05. TRANSFER OF PERMITS. The holder of a package store permit may not transfer the permit to another county.

Acts 1977, 65th Leg., p. 421, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 84, eff. September 1, 2019.

Sec. 22.06. PROHIBITED INTERESTS.

Text of subsection effective until September 1, 2021

(a) Except as otherwise provided in Section 102.05 of this code and in Subsection (b) of this section, no person who holds a package store permit or owns an interest in a package store may have a direct or indirect interest in any of the following:

(1) a manufacturer's, retail dealer's on-premise, or general, branch, or local distributor's license;

(2) a wine and beer retailer's, wine and beer retailer's off-premise, or mixed beverage permit; or

(3) the business of any of the permits or licenses listed in Subdivisions (1) and (2) of this subsection.

Text of subsection effective on September 1, 2021

(a) Except as otherwise provided in Section 102.05, no person who holds a package store permit or owns an interest in a package store may have a direct or indirect interest in any of the following:

(1) a brewer's, retail dealer's on-premise, or general or branch distributor's license;

(2) a wine and malt beverage retailer's, wine and malt beverage retailer's off-premise, or mixed beverage permit; or

(3) the business of any of the permits or licenses listed in Subdivisions (1) and (2) of this subsection.

Text of subsection effective until September 1, 2021

(b) A package store permit and a retail dealer's off-premise license may be issued to the same person.

Text of subsection effective on September 1, 2021

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(a)(6), eff. September 1, 2021.

Acts 1977, 65th Leg., p. 421, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 347, ch. 158, Sec. 1, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 1445, ch. 634, Sec. 3, eff. Aug. 27, 1979.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 85, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(a)(6), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 22.07. VIOLATION WHEN LICENSE ALSO HELD. If a person holding a package store permit who also holds a retail dealer's off-premise license for the same location violates a provision of this code or a rule or regulation of the commission, the violation is a ground for the suspension or cancellation of both the package store permit and the retail dealer's off-premise license for the premises where the violation was committed.

Acts 1977, 65th Leg., p. 421, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(a)(7), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 22.08. TRANSFER OF BEVERAGES. The owner of more than one package store who is also the holder of a local cartage permit may transfer alcoholic beverages between any of his licensed premises in the same county between the hours of 7 a.m. and 9 p.m. on any day when the sale of those beverages is legal, subject to rules prescribed by the commission.

Acts 1977, 65th Leg., p. 421, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 86, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 22.08. TRANSFER OF BEVERAGES. (a) The owner of more than one package store may transfer alcoholic beverages between any of the owner's licensed premises in the same county between the hours of 7 a.m. and 9 p.m. on any day when the sale of those beverages is legal, subject to rules prescribed by the commission.

(b) The holder of a package store permit may not transport alcoholic beverages under Subsection (a) unless:

(1) the permit holder provides the commission with a description, as required by the commission, of each motor vehicle used by the permit holder to transport alcoholic beverages; and

(2) each motor vehicle is plainly marked or lettered to

indicate that it is being used by the permit holder to transport alcoholic beverages.

(c) When transporting alcoholic beverages under this section, the holder of a package store permit may not violate the motor carrier laws of this state.

Acts 1977, 65th Leg., p. 421, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

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

Text of section effective until September 1, 2021

Sec. 22.10. OPENING CONTAINERS PROHIBITED. Except as authorized under Section 14.07, 37.01(d), or 52.01, no person may break or open a container containing liquor or beer or possess an opened container of liquor or beer on the premises of a package store.

Acts 1977, 65th Leg., p. 421, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 28, eff. Sept. 1, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 792 (H.B. 1997), Sec. 3, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 87, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 22.10. OPENING CONTAINERS PROHIBITED. Except as authorized under Section 14.07, 22.18, or 37.01(d), a person may not break or open a container containing liquor or a malt beverage or possess an opened container of liquor or a malt beverage on the premises of a package store.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 792 (H.B. 1997), Sec. 3, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 87, eff.

September 1, 2021.

Text of section effective until September 1, 2021

Sec. 22.11. CONSUMPTION ON PREMISES PROHIBITED. Except as authorized under Section 14.07, 37.01(d), or 52.01, no person may sell, barter, exchange, deliver, or give away any drink or drinks of alcoholic beverages from a container that has been opened or broken on the premises of a package store.

Acts 1977, 65th Leg., p. 422, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 28, eff. Sept. 1, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 792 (H.B. 1997), Sec. 3, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 88, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 22.11. CONSUMPTION ON PREMISES PROHIBITED. Except as authorized under Section 14.07, 22.18, or 37.01(d), a person may not sell, barter, exchange, deliver, or give away any drink or drinks of alcoholic beverages from a container that has been opened or broken on the premises of a package store.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 792 (H.B. 1997), Sec. 3, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 88, eff. September 1, 2021.

Sec. 22.12. BREACH OF PEACE. The commission or administrator may suspend or cancel a package store permit after giving the permittee notice and the opportunity to show compliance with all requirements of law for the retention of the permit if it finds that a breach of the peace has occurred on the licensed premises or on premises under the control of the permittee and that the breach of

the peace was not beyond the control of the permittee and resulted from his improper supervision of persons permitted to be on the licensed premises or on premises under his control.

Acts 1977, 65th Leg., p. 422, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 22.13. AGE OF PACKAGE STORE EMPLOYEES. (a) A package store permittee may not knowingly utilize or employ any person under the age of 21 to work on the premises of a package store in any capacity or to deliver alcohol off the premises of a package store.

(b) This section shall not apply to a person who was under the age of 21 and employed by a package store on September 1, 1995.

(c) This section shall not apply to a person who is employed by the person's parent or legal guardian to work in a package store that is owned by the parent or legal guardian.

Added by Acts 1995, 74th Leg., ch. 480, Sec. 2, eff. Sept. 1, 1995.

Sec. 22.14. SEPARATE PREMISES REQUIRED. (a) The premises of a package store shall be completely separated from the premises of other businesses by a solid, opaque wall from floor to ceiling, without connecting doors, shared bathroom facilities, or shared entry foyers.

(b) The premises of a package store shall have a front door through which the public may enter which opens onto a street, parking lot, public sidewalk, or the public area of a mall or shopping center.

(c) For all premises built or first occupied as a package store on or after September 1, 1995, the premises of a package store shall include:

(1) a rear or side entrance which opens onto a street, parking lot, public sidewalk, or the public area or common area of a mall or shopping center, which may be used for receipt and processing of merchandise but which shall in any event serve as an emergency exit from the premises; and

(2) a bathroom which complies with Title III of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. Section 12101 et seq.).

(d) Subsections (a), (b), and (c) shall not apply to a package

store that qualifies for exemption under Section 11.50 or to a package store in a hotel that qualifies for exemption under Section 102.05.

(e) The holder of a package store permit may sell nonalcoholic products and may conduct other lawful business on the premises of a package store, but the premises must be closed to entry by the general public during all hours in which the sale of liquor by a package store is prohibited by law. For purposes of this subsection, "the general public" shall mean retail customers and shall not include vendors, service personnel, and other persons entering the premises for purposes other than the purchase of goods sold on the premises.

Added by Acts 1995, 74th Leg., ch. 480, Sec. 2, eff. Sept. 1, 1995.

Sec. 22.15. CONDUCTING SEPARATE BUSINESSES AS A COMMON OPERATION. (a) No package store permittee, except for permittees wholly owned by the same persons, may conduct business in a manner so as to directly or indirectly coordinate operations with another package store as if they shared common ownership. For purposes of this section, "coordinate operations as if they shared common ownership" includes engaging in any of the following practices:

(1) cooperatively setting prices or credit policies or allowing any third party to do so on their behalf;

(2) sharing advertising;

(3) utilizing the same trade name, trademark, or slogan as another package store in the same county;

(4) sharing or utilizing the same bookkeeping or computer-processing service, unless the bookkeeping or computer-processing service is in the business of providing such services to the general public;

(5) transferring funds, merchandise, or equipment from one package store business to another;

(6) utilizing the same person as an employee or independent contractor for two or more package store businesses in any capacity, unless, in the case of an independent contractor, the independent contractor is in the business of providing similar services to the general public; and

(7) negotiating, or allowing a third party to negotiate,

quantity discounts for alcoholic beverages to be purchased by the package store business utilizing the sales volume of another package store business to increase the discount.

(b) The prohibition set forth in Subsection (a)(3) regarding trade names, trademarks, and slogans shall not prevent any package store business from utilizing a trade name, trademark, or slogan which the business was using on September 1, 1995.

(c) Before the commission may renew a package store permit, an individual who is an owner or officer of the permittee must file with the commission a sworn affidavit stating that the permittee fully complies with the requirements of this section.

(d) Any package store permittee who is injured in his business or property by another package store permittee by reason of anything prohibited in this section may institute suit in any district court in the county where the violation is alleged to have occurred to require enforcement by injunctive procedures and to recover triple damages plus costs of suit including reasonable attorney's fees.

Added by Acts 1995, 74th Leg., ch. 480, Sec. 2, eff. Sept. 1, 1995.

Sec. 22.16. OWNERSHIP BY PUBLIC CORPORATIONS PROHIBITED. (a) A package store permit may not be owned or held by a public corporation, or by any entity which is directly or indirectly owned or controlled, in whole or in part, by a public corporation, or by any entity which would hold the package store permit for the benefit of a public corporation.

(b) For purposes of this section, a public corporation means:

(1) any corporation or other legal entity whose shares or other evidence of ownership are listed on a public stock exchange; or

(2) any corporation or other legal entity in which more than 35 persons hold an ownership interest in the entity.

(c) Before the commission may renew a package store permit, an individual who is an owner or officer of the permittee must file with the commission a sworn affidavit stating that the permittee fully complies with the requirements of this section.

(d) This section shall not apply to a package store located in a hotel.

(e) Any package store permittee who is injured in his business

or property by another package store permittee or by any other person by reason of anything prohibited in this section may institute suit in any district court in the county where the violation is alleged to have occurred to require enforcement by injunctive procedures and to recover triple damages plus costs of suit including reasonable attorney's fees.

(f) This section shall not apply to a corporation:

(1) which was a public corporation as defined by this section on April 28, 1995; and

(2) which holds a package store permit on April 28, 1995, or which has an application pending for a package store permit on April 28, 1995; and

(3) which has provided to the commission on or before December 31, 1995, a sworn affidavit stating that such corporation satisfies the requirements of Subdivisions (1) and (2).

Added by Acts 1995, 74th Leg., ch. 480, Sec. 2, eff. Sept. 1, 1995.

Sec. 22.17. SALE TO CUSTOMER IN STORE AT CLOSING. Notwithstanding any other provision of this code, if a customer has entered a package store during hours in which the package store may sell alcohol and is still in the store at the time the hours of legal sale end, the permittee may allow the customer to remain in the store for a reasonable amount of time to finish shopping, and the permittee may sell an alcoholic beverage to that customer even though the sale occurs after the designated end of the hours of legal sale.

Added by Acts 2015, 84th Leg., R.S., Ch. 1009 (H.B. 824), Sec. 1, eff. June 19, 2015.

Text of section effective on September 1, 2021

Sec. 22.18. TASTINGS. (a) The holder of a package store permit may conduct product tastings of distilled spirits, wine, malt beverages, or spirit-based coolers on the permitted premises during regular business hours as provided by this section.

(b) Written notification of a product tasting must be posted on the premises of the package store permit holder not later than 48 hours before the tasting event. The notification shall clearly

state:

(1) the type and brand of alcoholic beverage to be tasted;

(2) the date and hours the tasting is to take place; and

(3) the address of the premises where the tasting is to occur.

(c) A copy of the notification shall be kept on file and available for inspection on the premises during all tasting hours.

(d) Sample portions at a product tasting shall be limited to not more than:

(1) one-half ounce for distilled spirits;

(2) one ounce for wine; and

(3) one ounce for malt beverages and coolers.

(e) Not more than 20 different products may be made available for tasting at any one time.

(f) No charge of any sort may be made for a sample serving.

(g) A person may be served more than one sample. Samples may not be served to a minor or to an obviously intoxicated person. A sample may not be removed from the permitted premises.

(h) During the tasting, not more than two containers of each brand or type of product being tasted may be open on the premises at one time.

(i) At the conclusion of the tasting, all empty or open containers of alcoholic beverages used in the tasting shall be removed from the premises or stored in a locked, secure area on the permitted premises.

(j) A tasting event authorized by this section may not be advertised except by on-site communications, by direct mail, by electronic mail, or on the permit holder's Internet website.

(k) Except as provided by Subsection (l) or elsewhere in this code, a person other than the package store permittee or the permittee's agent or employee may not dispense or participate in the dispensing of alcoholic beverages under this section.

(l) The holder of a distiller's or rectifier's permit or nonresident seller's permit or that permit holder's agent or employee may participate in and conduct product tastings of alcoholic beverages at a retailer's premises and may open, touch, or pour alcoholic beverages, make a presentation, or answer questions at the tasting. Any alcoholic beverage tasted under this subsection must be purchased from the package store permit holder on whose premises the tasting is held. The permit holder may not require the purchase of

more alcoholic beverages than are necessary for the tasting. This section does not authorize the holder of a distiller's or rectifier's permit or nonresident seller's permit or that permit holder's agent or employee to withdraw or purchase an alcoholic beverage from the holder of a wholesaler's permit or provide an alcoholic beverage for tasting on a retailer's premises that is not purchased from the retailer.

(m) For the purposes of this code and any other law or ordinance:

(1) a package store permit does not authorize the sale of alcoholic beverages for on-premise consumption; and

(2) none of the permit holder's income may be considered to be income from the sale of alcoholic beverages for on-premise consumption.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 89, eff. September 1, 2021.

CHAPTER 23. LOCAL DISTRIBUTOR'S PERMIT

Text of section effective until September 1, 2021

Sec. 23.01. AUTHORIZED ACTIVITIES. (a) The holder of a local distributor's permit may:

(1) purchase alcoholic beverages from wholesalers authorized to sell them for resale, but may purchase only those brands available for general distribution to all local distributor's permittees;

(2) sell and distribute the alcoholic beverages to mixed beverage and private club registration permittees; and

(3) rent or sell to mixed beverage and private club registration permittees any equipment, fixtures, or supplies used in the selling or dispensing of distilled spirits.

(b) A local distributor's permittee may purchase liquor only from a wholesaler's, general class B wholesaler's, or local class B wholesaler's permittee and may purchase only the types of liquor the particular wholesaler is authorized by his permit to sell.

Acts 1977, 65th Leg., p. 422, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 1181, ch. 453, Sec. 2, eff. Sept. 1, 1977.

Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 90, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 23.01. AUTHORIZED ACTIVITIES. (a) The holder of a local distributor's permit may:

(1) purchase alcoholic beverages, including malt beverages, from wholesalers and distributors authorized to sell them for resale, but may purchase only those brands available for general distribution to all local distributor's permittees;

(2) sell and distribute the alcoholic beverages, including malt beverages, to mixed beverage and private club registration permittees;

(3) sell and distribute distilled spirits to the holder of a nonprofit entity temporary event permit; and

(4) rent or sell to mixed beverage and private club registration permittees any equipment, fixtures, or supplies used in the selling or dispensing of distilled spirits.

(b) A local distributor's permittee may purchase liquor only from a wholesaler's or general class B wholesaler's permittee and may purchase only the types of liquor the particular wholesaler is authorized by the wholesaler's permit to sell.

Acts 1977, 65th Leg., p. 422, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1977, 65th Leg., p. 1181, ch. 453, Sec. 2, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 90, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 23.02. FEE. The annual state fee for a local distributor's permit is $100. The fee is in addition to and subject to the same conditions as the fee paid for the holder's package store permit.

Acts 1977, 65th Leg., p. 422, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1983, 68th Leg., p. 1344, ch. 278, Sec. 12, eff. Sept. 1, 1983.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(6), eff. September 1, 2021.

Sec. 23.03. ELIGIBILITY FOR PERMIT. The commission or the administrator may issue a local distributor's permit only to a holder of a package store permit.

Acts 1977, 65th Leg., p. 422, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 23.04. MAY TRANSFER BEVERAGES. If the holder of a local distributor's permit also holds a local cartage permit, he may transfer alcoholic beverages:

(1) to any place where the sale of alcoholic beverages is legal in the city or county where his premises are located; and

(2) to a regional airport located all or partly in an adjoining county if the airport is governed by a board, commission, or authority, some of whose members reside in the county where the local distributor's premises are located.

Acts 1977, 65th Leg., p. 422, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1977, 65th Leg., p. 1181, ch. 453, Sec. 3, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 91, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 23.04. MAY TRANSFER BEVERAGES. (a) The holder of a local distributor's permit may transfer alcoholic beverages:

(1) to any place where the sale of alcoholic beverages is legal in the city or county where the permit holder's premises are located; and

(2) to a regional airport located all or partly in an

adjoining county if the airport is governed by a board, commission, or authority, some of whose members reside in the county where the local distributor's premises are located.

(b) The holder of a local distributor's permit may not transport alcoholic beverages under Subsection (a) unless:

(1) the permit holder provides the commission with a description, as required by the commission, of each motor vehicle used by the permit holder to transport alcoholic beverages; and

(2) each motor vehicle is plainly marked or lettered to indicate that it is being used by the permit holder to transport alcoholic beverages.

(c) When transporting alcoholic beverages under this section, the holder of a local distributor's permit may not violate the motor carrier laws of this state.

Acts 1977, 65th Leg., p. 422, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1977, 65th Leg., p. 1181, ch. 453, Sec. 3, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 91, eff. September 1, 2021.

Sec. 23.05. SIZE OF CONTAINERS. (a) A holder of a local distributor's permit may not sell distilled spirits to the holder of a mixed beverage or private club permit in individual containers containing less than one fluid ounce.

(b) A holder of a local distributor's permit may sell to holders of mixed beverage permits distilled spirits, wine, and vinous liquor in containers containing not less than one ounce nor more than two ounces or in any other container authorized by this code.

Acts 1977, 65th Leg., p. 423, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 23.06. SIZE OF DELIVERY. A holder of a local distributor's permit may not deliver less than two and four-tenths gallons of distilled spirits in a single delivery.

Acts 1977, 65th Leg., p. 423, ch. 194, Sec. 1, eff. Sept. 1, 1977.

CHAPTER 24. WINE ONLY PACKAGE STORE PERMIT

Sec. 24.01. AUTHORIZED ACTIVITIES.

Text of subsection effective until September 1, 2021

(a) The holder of a wine only package store permit may:

(1) purchase ale, wine, and vinous liquors in this state from the holder of a winery, wine bottler's, wholesaler's, or class B wholesaler's permit; and

(2) sell those beverages to consumers at retail on or from the licensed premises in unbroken original containers of not less than six ounces for off-premises consumption only and not for the purpose of resale.

Text of subsection effective on September 1, 2021

(a) The holder of a wine only package store permit may:

(1) purchase wine and vinous liquors in this state from the holder of a winery, wholesaler's, or class B wholesaler's permit;

(2) purchase malt beverages from the holder of a general or branch distributor's license; and

(3) sell those beverages to consumers at retail on or from the licensed premises in unbroken original containers of not less than six ounces for off-premises consumption only and not for the purpose of resale.

(b) The holder of a wine only package store permit whose premises is located in a wet area permitting the legal sale of wine for off-premises consumption only as determined by an election held under Section 251.19 may only purchase, sell, or possess vinous liquor on those licensed premises.

(c) The qualifications for a wine only package store permit whose premises is in a wet area permitting the legal sale of wine for off-premises consumption only as determined by an election held under Section 251.19 are the same as the qualifications for a permit issued under Chapter 26 of this code, including the citizenship requirements prescribed by Section 6.03.

Acts 1977, 65th Leg., p. 423, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2118, ch. 819, Sec. 7, eff. June 13, 1979; Acts 2001, 77th Leg., ch. 400, Sec. 2, eff. Sept. 1, 2001. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 92, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 24.02. FEE. The annual state fee for a wine only package store permit is $75.

Acts 1977, 65th Leg., p. 423, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1344, ch. 278, Sec. 13, eff. Sept. 1, 1983.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(7), eff. September 1, 2021.

Sec. 24.03. DELIVERIES AND COLLECTIONS. The holder of a wine only package store permit may make deliveries to and collections from customers as provided in Section 22.03 of this code.

Acts 1977, 65th Leg., p. 424, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 24.04. DESIGNATION OF PLACE OF STORAGE. The owner of more than one wine only package store who is also the holder of a local cartage permit may designate one of his places of business as a place of storage. He may transfer alcoholic beverages to and from his place of storage and his other stores in the same county, subject to rules prescribed by the commission.

Acts 1977, 65th Leg., p. 424, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 93, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 24.04. DESIGNATION OF PLACE OF STORAGE; TRANSPORT OF BEVERAGES. (a) The owner of more than one wine only package store may designate one of the permit holder's places of business as a place of storage. The permit holder may transfer alcoholic beverages

to and from the place of storage and the permit holder's other stores in the same county, subject to rules prescribed by the commission.

(b) A wine only package store permit holder may not transport alcoholic beverages under Subsection (a) unless:

(1) the permit holder provides the commission with a description, as required by the commission, of each motor vehicle used by the permit holder to transport alcoholic beverages; and

(2) each motor vehicle is plainly marked or lettered to indicate that it is being used by the permit holder to transport alcoholic beverages.

(c) When transporting alcoholic beverages under this section, the holder of a wine only package store permit may not violate the motor carrier laws of this state.

Acts 1977, 65th Leg., p. 424, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 93, eff. September 1, 2021.

Sec. 24.05. PROHIBITED INTERESTS. (a) No person who holds a wine only package store permit or owns an interest in a wine only package store may have a direct or indirect interest in any of the following:

(1) a manufacturer's or general, branch, or local distributor's license;

(2) the business of any of the licenses listed in Subdivision (1) of this subsection.

Text of subsection effective until September 1, 2021

(b) A person may hold both a wine only package store permit and a retail dealer's off-premise license.

Text of subsection effective on September 1, 2021

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(a)(8), eff. September 1, 2021.

Text of subsection effective until September 1, 2021

(c) A person may not hold a wine and beer retailer's or wine and beer retailer's off-premise permit at the same location where the person holds a wine only package store permit.

Text of subsection effective on September 1, 2021

(c) A person may not hold a wine and malt beverage retailer's or wine and malt beverage retailer's off-premise permit at the same location where the person holds a wine only package store permit.

Acts 1977, 65th Leg., p. 424, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1445, ch. 634, Sec. 4, eff. Aug. 27, 1979; Acts 1995, 74th Leg., ch. 1042, Sec. 1, eff. Aug. 28, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 94, eff. September 1, 2021.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(a)(8), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 24.06. VIOLATION WHEN LICENSE ALSO HELD. If a person holding a wine only package store permit who also holds a retail dealer's off-premise license for the same location violates a provision of this code or a rule or regulation of the commission, the violation is a ground for the suspension or cancellation of both the wine only package store permit and the retail dealer's off-premise license for the premises where the violation was committed.

Acts 1977, 65th Leg., p. 424, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(a)(9), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 24.07. WHEN LICENSE ALSO HELD: HOURS OF SALE, ETC. A holder of a wine only package store permit who also holds a retail dealer's off-premise license for the same location may remain open and sell ale, wine, vinous liquors, and beer, for off-premises consumption only, on any day and during the same hours that the holder of a wine and beer retailer's permit may sell ale, beer, and wine, except that he may not sell wine or vinous liquor containing more than 17 percent alcohol by volume on a Sunday or after 10 p.m. on any day.

Acts 1977, 65th Leg., p. 424, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1999, 76th Leg., ch. 418, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 95, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 24.07. HOURS OF SALE. A holder of a wine only package store permit may remain open and sell malt beverages, wine, and vinous liquors, for off-premises consumption only, on any day and during the same hours that the holder of a wine and malt beverage retailer's permit may sell malt beverages and wine, except that the permittee may not sell wine or vinous liquor containing more than 17 percent alcohol by volume on a Sunday or after 10 p.m. on any day.

Acts 1977, 65th Leg., p. 424, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1999, 76th Leg., ch. 418, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 95, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 24.09. OPENING CONTAINERS PROHIBITED. Except as provided by Section 52.01, a person may not break or open a container of liquor or beer or possess an opened container of liquor or beer on the premises of a wine only package store.

Acts 1977, 65th Leg., p. 424, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2005, 79th Leg., Ch. 1291 (H.B. 2590), Sec. 1, eff. June 18, 2005.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 96, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 24.09. OPENING CONTAINERS PROHIBITED. Except as provided by Section 24.12, a person may not break or open a container of

liquor or malt beverages or possess an opened container of liquor or malt beverages on the premises of a wine only package store.

Acts 1977, 65th Leg., p. 424, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2005, 79th Leg., Ch. 1291 (H.B. 2590), Sec. 1, eff. June 18, 2005.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 96, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 24.10. BEVERAGE FROM OPENED CONTAINER. Except as provided by Section 52.01, a person may not sell, barter, exchange, deliver, or give away a drink of alcoholic beverage from a container that has been opened or broken on the premises of a wine only package store.

Acts 1977, 65th Leg., p. 425, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2005, 79th Leg., Ch. 1291 (H.B. 2590), Sec. 2, eff. June 18, 2005.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 97, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 24.10. BEVERAGE FROM OPENED CONTAINER. Except as provided by Section 24.12, a person may not sell, barter, exchange, deliver, or give away a drink of alcoholic beverage from a container that has been opened or broken on the premises of a wine only package store.

Acts 1977, 65th Leg., p. 425, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2005, 79th Leg., Ch. 1291 (H.B. 2590), Sec. 2, eff. June 18, 2005.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 97, eff. September 1, 2021.

Sec. 24.11. BREACH OF PEACE. The commission or administrator

may suspend or cancel a wine only package store permit after giving the permittee notice and the opportunity to show compliance with all requirements of law for the retention of the permit if it finds that a breach of the peace has occurred on the licensed premises or on premises under the control of the permittee and that the breach of the peace was not beyond the control of the permittee and resulted from his improper supervision of persons permitted to be on the licensed premises or on premises under his control.

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

Text of section effective until September 1, 2021

Sec. 24.12. WINE AND ALE SAMPLING. (a) The holder of a wine only package store permit may conduct free product samplings of wine or ale on the permit holder's premises during regular business hours as provided by this section.

(b) An agent or employee of the holder of a wine only package store permit may open, touch, or pour wine or ale, make a presentation, or answer questions at a sampling event.

(c) For the purposes of this code and any other law or ordinance:

(1) a wine only package store permit does not authorize the sale of alcoholic beverages for on-premise consumption; and

(2) none of the permit holder's income may be considered to be income from the sale of alcoholic beverages for on-premise consumption.

(d) Any wine or ale used in a sampling event under this section must be purchased from or provided by the retailer on whose premises the sampling event is held.

(e) When a sampling event under this section is held on the premises of a wine only package store permit located in an area which is wet for the sale of wine but which is not wet for the sale of higher alcohol content wines that may be sold under an unrestricted wine only package store permit, the only wines that may be sampled are wines which may be legally sold by the wine only package store permittee as restricted under Section 251.81.

Added by Acts 2005, 79th Leg., Ch. 192 (H.B. 937), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1073 (H.B. 2723), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1073 (H.B. 2723), Sec. 3, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 98, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 24.12. WINE AND MALT BEVERAGES SAMPLING. (a) The holder of a wine only package store permit may conduct free product samplings of wine or malt beverages on the permit holder's premises during regular business hours as provided by this section.

(b) An agent or employee of the holder of a wine only package store permit may open, touch, or pour wine or malt beverages, make a presentation, or answer questions at a sampling event.

(c) For the purposes of this code and any other law or ordinance:

(1) a wine only package store permit does not authorize the sale of alcoholic beverages for on-premise consumption; and

(2) none of the permit holder's income may be considered to be income from the sale of alcoholic beverages for on-premise consumption.

(d) Any wine or malt beverages used in a sampling event under this section must be purchased from or provided by the retailer on whose premises the sampling event is held. The retailer may not require the purchase of more alcoholic beverages than are necessary for the tasting. This section does not authorize the holder of a nonresident seller's permit or that permit holder's agent or employee to withdraw or purchase an alcoholic beverage from the holder of a wholesaler's permit or provide an alcoholic beverage for tasting on a retailer's premises that is not purchased from the retailer.

(e) When a sampling event under this section is held on the premises of a wine only package store permit located in an area which is wet for the sale of wine but which is not wet for the sale of higher alcohol content wines that may be sold under an unrestricted wine only package store permit, the only wines that may be sampled are wines which may be legally sold by the wine only package store permittee as restricted under Section 251.81.

(f) Written notification of a product tasting must be posted on the premises of the wine only package store permit holder not later than 48 hours before the tasting event. The notification shall clearly state:

(1) the type and brand of alcoholic beverage to be tasted;

(2) the date and hours the tasting is to take place; and

(3) the address of the premises where the tasting is to occur.

(g) A copy of the notification shall be kept on file and available for inspection on the premises during all tasting hours.

(h) Sample portions at a product tasting shall be limited to no more than:

(1) one ounce for wine; and

(2) one ounce for malt beverages and coolers.

(i) Not more than 20 different products may be made available for tasting at any one time.

(j) No charge of any sort may be made for a sample serving.

(k) A person may be served more than one sample. Samples may not be served to a minor or to an obviously intoxicated person. A sample may not be removed from the permitted premises.

(l) During the tasting, not more than two containers of each brand or type of product being tasted may be open on the premises at one time.

(m) At the conclusion of the tasting, all empty or open containers of alcoholic beverages used in the tasting shall be removed from the premises or stored in a locked, secure area on the permitted premises.

(n) A tasting event authorized by this section may not be advertised except by on-site communications, by direct mail, by electronic mail, or on the permit holder's Internet website.

(o) Except as provided by Subsection (p) or elsewhere in this code, a person other than the wine only package store permittee or the permittee's agent or employee may not dispense or participate in the dispensing of alcoholic beverages under this section.

(p) The holder of a nonresident seller's permit or that permit holder's agent or employee may participate in and conduct product tastings of alcoholic beverages at a retailer's premises and may open, touch, or pour alcoholic beverages, make a presentation, or answer questions at the tasting.

Added by Acts 2005, 79th Leg., Ch. 192 (H.B. 937), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1073 (H.B. 2723), Sec. 2, eff. September 1, 2007.
Acts 2007, 80th Leg., R.S., Ch. 1073 (H.B. 2723), Sec. 3, eff. September 1, 2007.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 98, eff. September 1, 2021.

Text of chapter effective until September 1, 2021

Text of chapter effective until September 1, 2021

CHAPTER 25. WINE AND BEER RETAILER'S PERMIT

Text of section effective until September 1, 2021

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

(1) for consumption on or off the premises where sold, but not for resale, wine, beer, and malt liquors 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. 50 (H.B. 2016), Sec. 1, eff. September 1, 2019.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 100, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 25.02. FEE. (a) Except as provided in Subsection (b) and Section 25.03, the annual state fee for a wine and beer retailer's permit is $175.

(b) The annual state fee for a wine and beer retailer's permit in connection with an establishment located in a county with a population of 1.4 million or more is $750. The original application fee for a wine and beer retailer's permit in connection with an establishment located in a county with a population of 1.4 million or more is $1,000.

Acts 1977, 65th Leg., p. 425, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1345, ch. 278, Sec. 14, eff. Sept. 1, 1983.
Amended by:

Acts 2005, 79th Leg., Ch. 452 (S.B. 1850), Sec. 4, eff. September 1, 2005.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(8), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 25.03. EXCURSION BOATS: PERMITS, FEES.

(a) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 415(b)(7), eff. September 1, 2019.

(b) A wine and beer retailer's permit may be issued for a regularly scheduled excursion boat which is licensed by the United States Coast Guard to carry passengers on the navigable waters of the state and which has a tonnage of not less than 35 tons, a length of not less than 55 feet, and a passenger capacity of not less than 45 passengers. The annual state fee for the permit is $130.

(c) Application for a permit for an excursion boat and payment of the required fee shall be made directly to the commission.

(d) A permit for an excursion boat is inoperative in a dry area.

Acts 1977, 65th Leg., p. 425, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1345, ch. 278, Sec. 15, eff. Sept. 1, 1983.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 101, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 102, eff. September 1, 2019.

Repealed by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(a)(10), eff. September 1, 2021.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 415(b)(7), eff. September 1, 2019.

Text of section effective until September 1, 2021

Sec. 25.04. ISSUANCE, CANCELLATION, AND SUSPENSION OF PERMIT. (a) A wine and beer 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 beer 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.

Text of section effective until September 1, 2021

Sec. 25.05. HEARINGS ON PERMIT APPLICATION: NOTICE AND ATTENDANCE.

(a) On receipt of an original application for a wine and beer 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.

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

Sec. 25.06. DENIAL OF ORIGINAL APPLICATION.

Text of subsection effective until September 1, 2021

(a) The commission shall deny an original application for a wine and beer 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;

(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).

Text of subsection effective until September 1, 2021

(c) The commission shall deny an application for a renewal of a wine and beer 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).

(d) In this section the word "applicant" includes the individual natural person holding or applying for the permit or, if the holder or applicant is not an individual natural person, the individual partner, officer, trustee, or receiver who is primarily responsible for the management of the premises.

Acts 1977, 65th Leg., p. 426, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(56), eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 625, Sec. 2, eff. Sept. 1, 2003. Amended by:

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

Text of section effective until September 1, 2021

Sec. 25.09. POSSESSION OF CERTAIN BEVERAGES PROHIBITED. (a) Except as provided by this section, a wine and beer 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 beer 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.

Text of section effective until September 1, 2021

Sec. 25.10. APPLICATION OF OTHER CODE PROVISIONS. Sections 61.78, 61.81, 61.82, and 61.84 of this code also apply to a wine and

beer retailer's permit. The restrictions in this code relating to beer 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 beer retailer's permittee.

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

Text of section effective until September 1, 2021

Sec. 25.11. SEATING AREA REQUIRED. A wine and beer 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.

Text of section effective until 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 beer 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.

Added by Acts 1987, 70th Leg., ch. 582, Sec. 2, eff. Aug. 31, 1987.

Text of section effective until September 1, 2021

Sec. 25.13. FOOD AND BEVERAGE CERTIFICATE. (a) In this section, "location" means the designated physical address of the wine and beer 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 beer retailer's permit may be issued a food and beverage certificate by the commission if 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 beer 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 beer retailer's permit. The holder of a wine and beer 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.

Added by Acts 1995, 74th Leg., ch. 1060, Sec. 5, eff. Aug. 28, 1995. Amended by Acts 2001, 77th Leg., ch. 853, Sec. 1, eff. Sept. 1, 2001;

Acts 2001, 77th Leg., ch. 1045, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1384 (S.B. 1426), Sec. 1, eff. September 1, 2007.
Acts 2017, 85th Leg., R.S., Ch. 466 (H.B. 2101), Sec. 1, eff. September 1, 2017.

Text of section effective until September 1, 2021

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 beer 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.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1298 (H.B. 2818), Sec. 1, eff. September 1, 2013.

Text of section as added by Acts 2019, 86th Leg., R.S., Ch. 434 (S.B. 1232), Sec. 1

For text of section as added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 112, see other Sec. 25.15.

Text of section effective until 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.

Text of chapter effective on September 1, 2021

Text of chapter effective on September 1, 2021

CHAPTER 25. WINE AND MALT BEVERAGE RETAILER'S PERMIT

Text of section effective on September 1, 2021

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.

Text of section effective on 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.

Text of section effective on 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.

Text of section effective on 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;

(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.

Text of section effective on 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.

Text of section effective on 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.

Text of section effective on 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.

Text of section effective on 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.

Text of section effective on 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.

(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).

(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 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.

(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.

Text of section effective on September 1, 2021

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.

Text of section as added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 112

For text of section as added by Acts 2019, 86th Leg., R.S., Ch. 434 (S.B. 1232), Sec. 1, see other Sec. 25.15.

Text of section effective on September 1, 2021

Sec. 25.15. 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.

Text of section as added by Acts 2019, 86th Leg., R.S., Ch. 434 (S.B. 1232), Sec. 1

For text of section as added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 112, see other Sec. 25.15.

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.

Text of chapter effective until September 1, 2021

Text of chapter effective until September 1, 2021

CHAPTER 26. WINE AND BEER RETAILER'S OFF-PREMISE PERMIT

Text of section effective until September 1, 2021

Sec. 26.01. AUTHORIZED ACTIVITIES. (a) The holder of a wine and beer retailer's off-premise permit may sell for off-premises consumption only, in unbroken original containers, but not for resale, wine, beer, and malt liquors containing alcohol in excess of one-half of one percent by volume but not more than 17 percent by volume.

(b) The holder of a wine and beer retailer's off-premise permit may conduct free product samplings of wine, beer, and malt liquor containing alcohol in excess of one-half of one percent by volume but not more than 17 percent by volume on the permit holder's premises during regular business hours as provided by Section 26.08.

Acts 1977, 65th Leg., p. 428, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1999, 76th Leg., ch. 418, Sec. 4, eff. Sept. 1, 1999.
Amended by:
Acts 2005, 79th Leg., Ch. 192 (H.B. 937), Sec. 2, eff. September 1, 2005.
Acts 2007, 80th Leg., R.S., Ch. 1073 (H.B. 2723), Sec. 4, eff. September 1, 2007.
Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. 1090), Sec. 9, eff. September 1, 2013.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 114, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 26.02. FEE. The annual state fee for a wine and beer retailer's off-premise permit is $60.

Acts 1977, 65th Leg., p. 428, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1346, ch. 278, Sec. 16, eff. Sept. 1, 1983.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(9), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 26.03. ISSUANCE, CANCELLATION, AND SUSPENSION OF PERMIT. (a) A wine and beer retailer's off-premise permit is issued by the commission. The qualifications 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 off-premise license.

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

Acts 1977, 65th Leg., p. 428, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 115(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 115(b), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 26.04. APPLICATION OF OTHER CODE PROVISIONS. Sections 61.78, 61.81, 61.82, and 61.84 of this code also apply to a wine and beer retailer's off-premise permit. The restrictions in this code relating to beer as to the application of local restrictions, sales to minors and intoxicated persons, and age of employees apply to the sale of alcoholic beverages by a wine and beer retailer's off-premise permittee.

Acts 1977, 65th Leg., p. 428, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 116, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 26.05. WARNING SIGN REQUIRED. (a) Each holder of a wine and beer retailer's off-premise permit shall display in a prominent place on his premises a sign stating in letters at least two inches high: IT IS A CRIME (MISDEMEANOR) TO CONSUME LIQUOR OR BEER ON THESE PREMISES. The commission or administrator may require the holder of the permit to also display the sign in a language other than English if it can be observed or determined that a substantial portion of the expected customers speak the other language as their familiar language.

(b) A permittee who fails to comply with this section commits a misdemeanor punishable by a fine of not more than $25.

Added by Acts 1983, 68th Leg., p. 2211, ch. 414, Sec. 2, eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 689, Sec. 1, eff. Sept. 1, 1985.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 117, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 26.08. SAMPLING EVENT. (a) An employee of the holder of a wine and beer retailer's off-premise permit may open, touch, or pour wine, beer, or malt liquor, make a presentation, or answer questions at a sampling event.

(b) For purposes of this code and any other law or ordinance:

(1) a wine and beer retailer's off-premise permit does not authorize the sale of alcoholic beverages for on-premises consumption; and

(2) none of the permit holder's income may be considered to be income from the sale of alcoholic beverages for on-premises consumption.

(c) Any wine, beer, or malt liquor used in a sampling event under this section must be purchased from or provided by the retailer on whose premises the sampling event is held. This section does not authorize the holder of a wine and beer retailer's off-premise permit to withdraw or purchase alcoholic beverages from the holder of a wholesaler's permit or a distributor's license or provide alcoholic beverages for a sampling on a retailer's premises that is not purchased from the retailer. The amount of alcoholic beverages purchased from the retailer may not exceed the amount of alcoholic beverages used in the sampling event.

Added by Acts 2005, 79th Leg., Ch. 192 (H.B. 937), Sec. 3, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1073 (H.B. 2723), Sec. 5, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1073 (H.B. 2723), Sec. 6, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 118, eff. September 1, 2021.

Text of chapter effective on September 1, 2021

Text of chapter effective on September 1, 2021

CHAPTER 26. WINE AND MALT BEVERAGE RETAILER'S OFF-PREMISE PERMIT

Text of section effective on September 1, 2021

Sec. 26.01. AUTHORIZED ACTIVITIES. (a) The holder of a wine

and malt beverage retailer's off-premise permit may sell for off-premises consumption only, in unbroken original containers, 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.

(b) The holder of a wine and malt beverage retailer's off-premise permit may conduct free product samplings of wine and malt beverages containing alcohol in excess of one-half of one percent by volume but not more than 17 percent by volume on the permit holder's premises during regular business hours as provided by Section 26.08.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 114, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 26.03. ISSUANCE, CANCELLATION, AND SUSPENSION OF PERMIT. (a) A wine and malt beverage retailer's off-premise permit is issued by the commission. The qualifications 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 off-premise license.

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 115(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 115(b), eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 26.04. 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 off-premise permit. The restrictions in this code relating to malt beverages as to the application of local

restrictions, sales to minors and intoxicated persons, and age of employees apply to the sale of alcoholic beverages by a wine and malt beverage retailer's off-premise permittee.

Acts 1977, 65th Leg., p. 428, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 116, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 26.05. WARNING SIGN REQUIRED. (a) Each holder of a wine and malt beverage retailer's off-premise permit shall display in a prominent place on the permittee's premises a sign stating in letters at least two inches high: IT IS A CRIME (MISDEMEANOR) TO CONSUME LIQUOR OR MALT BEVERAGES ON THESE PREMISES. The commission or administrator may require the holder of the permit to also display the sign in a language other than English if it can be observed or determined that a substantial portion of the expected customers speak the other language as their familiar language.

(b) A permittee who fails to comply with this section commits a misdemeanor punishable by a fine of not more than $25.

Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 117, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 26.08. SAMPLING EVENT. (a) An employee of the holder of a wine and malt beverage retailer's off-premise permit may open, touch, or pour wine or malt beverages, make a presentation, or answer questions at a sampling event.

(b) For purposes of this code and any other law or ordinance:

(1) a wine and malt beverage retailer's off-premise permit does not authorize the sale of alcoholic beverages for on-premises consumption; and

(2) none of the permit holder's income may be considered to be income from the sale of alcoholic beverages for on-premises consumption.

(c) Any wine or malt beverages used in a sampling event under this section must be purchased from or provided by the retailer on whose premises the sampling event is held. This section does not authorize the holder of a wine and malt beverage retailer's off-premise permit to withdraw or purchase alcoholic beverages from the holder of a wholesaler's permit or a distributor's license or provide alcoholic beverages for a sampling on a retailer's premises that is not purchased from the retailer. The amount of alcoholic beverages purchased from the retailer may not exceed the amount of alcoholic beverages used in the sampling event.

Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 118, eff. September 1, 2021.

Text of chapter effective until September 1, 2021
CHAPTER 27. TEMPORARY AND SPECIAL WINE AND BEER RETAILER'S PERMITS

Text of subchapter effective until September 1, 2021
SUBCHAPTER A. TEMPORARY WINE AND BEER RETAILER'S PERMIT

Text of section effective until September 1, 2021

Sec. 27.01. AUTHORIZED ACTIVITIES. The holder of a temporary wine and beer retailer's permit may sell for consumption on or off the premises where sold, but not for resale, wine, beer, and malt liquors containing alcohol in excess of one-half of one percent by volume but not more than 17 percent by volume.

Acts 1977, 65th Leg., p. 428, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1999, 76th Leg., ch. 418, Sec. 5, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 90, Sec. 1, eff. Sept. 1, 2003.

Text of section effective until September 1, 2021

Sec. 27.011. SALE OUTSIDE PERMIT HOLDER'S COUNTY. A holder of a temporary wine and beer retailer's permit that sells wine, beer, or malt liquor under that permit in a county other than the county in which the premises covered by the permit required by Section 27.04 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 chapter; 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 2003, 78th Leg., ch. 90, Sec. 2, eff. Sept. 1, 2003.

Text of section effective until September 1, 2021

Sec. 27.02. FEE. The state fee for a temporary wine and beer retailer's permit is $30. No refund shall be allowed for the surrender or nonuse of the permit.

Acts 1977, 65th Leg., p. 429, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 1346, ch. 278, Sec. 17, eff. Sept. 1, 1983.

Text of section effective until September 1, 2021

Sec. 27.03. DURATION OF PERMIT. (a) Except as provided by Subsection (b), a temporary wine and beer retailer's permit may be issued for a period of not more than four days.

(b) A temporary wine and beer retailer's permit issued under Section 27.07 may be issued for a period of five days. On notice to the commission, the commission may extend the permit for one additional day to accommodate the postponement of scheduled racing events due to an act of nature.

Acts 1977, 65th Leg., p. 429, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by:

Acts 2005, 79th Leg., Ch. 241 (S.B. 1331), Sec. 1, eff. May 28, 2005.

Text of section effective until September 1, 2021

Sec. 27.04. REQUIRED BASIC PERMIT. A temporary wine and beer retailer's permit may be issued only to a holder of a wine and beer retailer's permit, a holder of a mixed beverage permit, or a nonprofit historic preservation organization that has been in

existence for at least 30 years.

Acts 1977, 65th Leg., p. 429, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1993, 73rd Leg., ch. 377, Sec. 1, eff. June 2, 1993;
Acts 1993, 73rd Leg., ch. 934 Sec. 32, eff. Sept. 1, 1993.

Text of section effective until September 1, 2021

Sec. 27.05. ISSUANCE AND USE OF PERMIT; RULES AND REGULATIONS. (a) Temporary wine and beer retailer's permits are issued by the administrator, the commission, or an authorized representative of the commission. The commission shall adopt rules and regulations governing the issuance and use of temporary wine and beer retailer's permits.

(b) The permits shall be issued only for the sale of authorized alcoholic beverages at picnics, celebrations, or similar events, or events described by Section 27.07.

(c) The administrator or commission may refuse to issue a permit if there is reason to believe the issuance of the permit would be detrimental to the public.

Acts 1977, 65th Leg., p. 429, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2005, 79th Leg., Ch. 241 (S.B. 1331), Sec. 2, eff. May 28, 2005.

Text of section effective until September 1, 2021

Sec. 27.06. CANCELLATION OR SUSPENSION OF BASIC PERMIT. The basic permit under which a temporary wine and beer retailer's permit was issued may be cancelled or suspended for a violation on the premises covered by the temporary permit that would result in the cancellation or suspension of the basic permit if committed on the premises covered by the basic permit.

Acts 1977, 65th Leg., p. 429, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 27.07. USE OF PERMIT IN CERTAIN RACING FACILITIES. (a)

The commission may issue a temporary wine and beer retailer's permit to the holder of a mixed beverage permit covering premises located in a facility with a seating capacity of more than 150,000 that is open to the public for use in areas of the facility not otherwise covered by a license or permit during a motor vehicle racing event sponsored by a professional motor racing association.

(b) The commission may not issue more than four temporary wine and beer retailer's permits under this section in a calendar year to a mixed beverage permit holder.

(c) The holder of a temporary wine and beer retailer's permit under this section may not engage in the following activities on the areas covered by the permit:

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

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

(3) 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

(4) 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.

Added by Acts 2005, 79th Leg., Ch. 241 (S.B. 1331), Sec. 3, eff. May 28, 2005.

Text of subchapter effective until September 1, 2021

SUBCHAPTER B. SPECIAL THREE-DAY WINE AND BEER PERMIT

Text of section effective until September 1, 2021

Sec. 27.11. AUTHORIZED ACTIVITIES. The holder of a special three-day wine and beer permit may sell for consumption on the premises for which the permit is issued, but not for resale, wine, beer, and malt liquors containing alcohol in excess of one-half of one percent by volume but not more than 17 percent by volume.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 33, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 418, Sec. 6, eff. Sept. 1, 1999.

Text of section effective until September 1, 2021

Sec. 27.12. FEE. The state fee for a special three-day wine and beer permit is $30.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 33, eff. Sept. 1, 1993.

Text of section effective until September 1, 2021

Sec. 27.13. ISSUANCE OF PERMIT. (a) The commission may issue a special three-day wine and beer permit directly to a nonprofit charitable, civic, or religious organization for the temporary serving of wine and beer at a picnic, celebration, or similar event sponsored by the organization.

(b) The commission by rule may limit the number of special three-day wine and beer permits issued in each calendar year to a single nonprofit charitable, civic, or religious organization for events sponsored by that organization.

(c) If a special three-day wine and beer permit is issued for a premises in an area in which the sale of beer for on-premise consumption has been authorized by a local option election, but the sale of wine for on-premise consumption has not been authorized, then the permittee is only authorized to sell beer.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 33, eff. Sept. 1, 1993.

Text of section effective until September 1, 2021

Sec. 27.14. APPLICATION OF WINE AND BEER RETAILER'S PERMIT PROVISIONS. A provision of this code that applies to a wine and beer retailer permit applies to a special three-day wine and beer permit unless the provision conflicts with a provision of this subchapter.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 33, eff. Sept. 1, 1993.

Text of section effective until September 1, 2021

Sec. 27.15. RULES. The commission may adopt rules as necessary to implement and administer this subchapter.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 33, eff. Sept. 1, 1993.

CHAPTER 28. MIXED BEVERAGE PERMIT

Sec. 28.01. AUTHORIZED ACTIVITIES.

(a) The holder of a mixed beverage permit may sell, offer for sale, and possess mixed beverages, including distilled spirits, for consumption on the licensed premises:

(1) from sealed containers containing not less than one fluid ounce nor more than two fluid ounces or of any legal size; and

(2) from unsealed containers.

Text of subsection effective until September 1, 2021

(b) The holder of a mixed beverage permit for an establishment in a hotel may deliver mixed beverages, including wine and beer, to individual rooms of the hotel or to any other location in the hotel building or grounds, except a parking area or the licensed premises of another alcoholic beverage establishment, without regard to whether the place of delivery is part of the licensed premises. A permittee in a hotel may allow a patron or visitor to enter or leave the licensed premises, even though the patron or visitor possesses an alcoholic beverage, if the beverage is in an open container and appears to be possessed for present consumption.

Text of subsection effective on September 1, 2021

(b) The holder of a mixed beverage permit for an establishment in a hotel may deliver mixed beverages, including wine and malt beverages, to individual rooms of the hotel or to any other location in the hotel building or grounds, except a parking area or the licensed premises of another alcoholic beverage establishment, without regard to whether the place of delivery is part of the licensed premises. A permittee in a hotel may allow a patron or visitor to enter or leave the licensed premises, even though the patron or visitor possesses an alcoholic beverage, if the beverage is in an open container and appears to be possessed for present consumption.

Text of subsection effective until September 1, 2021

(c) The holder of a mixed beverage permit may also:

(1) purchase wine, beer, ale, and malt liquor containing alcohol of not more than 24 percent by volume in containers of any legal size from any permittee or licensee authorized to sell those

beverages for resale; and

(2) sell the wine, beer, ale, and malt liquor for consumption on the licensed premises.

Text of subsection effective on September 1, 2021

(c) The holder of a mixed beverage permit may also:

(1) purchase wine and malt beverages containing alcohol of not more than 24 percent by volume in containers of any legal size from any permittee or licensee authorized to sell those beverages for resale; and

(2) sell the wine and malt beverages for consumption on the licensed premises.

Acts 1977, 65th Leg., p. 429, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1977, 65th Leg., p. 1182, ch. 453, Sec. 4, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 111, ch. 70, Sec. 1, eff. Aug. 27, 1979.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 50 (H.B. 2016), Sec. 2, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 119, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 28.02. FEE. (a) The annual state fee for an original mixed beverage permit is $3,000.

(b) The annual state fee for the first renewal of a mixed beverage permit is $2,250.

(c) The annual state fee for the second renewal of a mixed beverage permit is $1,500.

(d) The annual state fee for the third and each subsequent renewal of a mixed beverage permit is $750.

Acts 1977, 65th Leg., p. 430, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1346, ch. 278, Sec. 18, eff. Sept. 1, 1984.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(10), eff. September 1, 2021.

Sec. 28.03. INFORMATION REQUIRED OF APPLICANTS. In addition to the information required of applicants for permits under this code, the applicant for a mixed beverage permit must file with his original and renewal application a sworn statement in a form prescribed by the commission or administrator containing the following information:

(1) the name and residential address of the lessor of the premises;

(2) the name and address of the lessee of the premises;

(3) the amount of monthly rental on the premises and the date of expiration of the lease;

(4) whether the lease or rental agreement includes furniture and fixtures;

(5) whether the business is to be operated under a franchise and, if so, the name and address of the franchisor;

(6) the name and address of the accountant of the business;

(7) a list of all bank accounts, including account numbers, used in connection with the business; and

(8) any information required by the commission or administrator relevant to the determination of all persons having a financial interest of any kind in the granting of the mixed beverage permit.

Acts 1977, 65th Leg., p. 430, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 28.04. CHANGE IN CORPORATE CONTROL. (a) A mixed beverage permit held by a corporation may not be renewed if the commission or administrator finds that legal or beneficial ownership of over 50 percent of the stock of the corporation has changed since the time the original permit was issued.

(b) The commission or administrator may adopt reasonable rules and regulations in accordance with the provisions of this section.

(c) A corporation which is barred from renewing a permit because of this section may file an application for an original permit and may be issued an original permit if otherwise qualified.

(d) This section does not apply to a change in corporate control:

(1) brought about by the death of a shareholder if the shareholder's surviving spouse or descendants are the shareholder's successors in interest; or

(2) brought about when legal or beneficial ownership of over 50 percent of the stock of the corporation has been transferred:

(A) to a person who possesses the qualifications required of other applicants for permits and is currently an officer of the corporation and has been an officer of the corporation ever since the date the original permit was issued; or

(B) if the permittee notifies the commission, on completed forms and attachments prescribed by the commission, of the proposed transfer prior to the date the transfer is to become effective and the commission does not find that circumstances exist that would be grounds for the denial of a renewal of the permit under Section 11.46 and provided the ownership of the corporation immediately after the transfer satisfies the requirements of this code.

(e) Nothing in this section shall be construed to grant any property right to any permit or construed to prevent the commission from suspending or canceling a permit at any time after notice and hearing for a violation of this code.

Acts 1977, 65th Leg., p. 430, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1987, 70th Leg., ch. 303, Sec. 6, eff. June 11, 1987;
Acts 1989, 71st Leg., 1st C.S., ch. 36, Sec. 3, eff. Oct. 18, 1989;
Acts 1993, 73rd Leg., ch. 934, Sec. 34, eff. Jan. 1, 1994.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 986 (S.B. 1217), Sec. 4, eff. September 1, 2007.

Sec. 28.05. RENEWAL OF PERMIT BY DESCENDANT OR SURVIVING SPOUSE. If the surviving spouse or surviving descendant of a holder of a mixed beverage permit qualifies as the successor in interest to the permit as provided in Section 11.10 of this code, the descendant or surviving spouse may continue to renew the permit by paying a renewal fee equal to the fee the permittee would be required to pay had he lived.

Acts 1977, 65th Leg., p. 431, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 28.06. POSSESSION OF ALCOHOLIC BEVERAGE NOT COVERED BY INVOICE. (a) Except as provided by Sections 14.07 and 37.01(d), no

holder of a mixed beverage permit, nor any officer, agent, or employee of a holder, may possess or permit to be possessed on the premises for which the permit is issued any alcoholic beverage which is not covered by an invoice from the supplier from whom the alcoholic beverage was purchased.

(b) A person who violates Subsection (a) of this section commits a misdemeanor punishable by a fine of not more than $1,000 or by confinement in the county jail for no more than 30 days or by both.

(c) Except as provided by Sections 14.07 and 37.01(d), no holder of a mixed beverage permit, nor any officer, agent, or employee of a holder, may knowingly possess or permit to be possessed on the licensed premises any alcoholic beverage which is not covered by an invoice from the supplier from whom the alcoholic beverage was purchased.

(d) A person who violates Subsection (c) of this section commits a misdemeanor punishable by a fine of not less than $500 nor more than $1,000 and by confinement in the county jail for not less than 30 days nor more than two years. The commission or administrator shall cancel the permit of any permittee found by the commission or administrator, after notice and hearing, to have violated or to have been convicted of violating Subsection (c) of this section.

(e) The commission by rule may allow the holder of a mixed beverage permit or an officer, agent, or employee of the permit holder to possess and use alcoholic beverages that are not covered by an invoice on the permitted premises for cooking purposes.

Acts 1977, 65th Leg., p. 431, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 441 (H.B. 2237), Sec. 2, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 792 (H.B. 1997), Sec. 4, eff. September 1, 2019.

Sec. 28.07. PURCHASE AND TRANSPORTATION OF ALCOHOLIC BEVERAGES. (a) All distilled spirits sold by a holder of a mixed beverage permit must be purchased from a holder of a local distributor's permit in the county in which the premises of a mixed beverage

permittee is located.

Text of subsection effective until September 1, 2021

(b) If a holder of a mixed beverage permit is in a county where there are no local distributors, he may purchase alcoholic beverages in the nearest county where local distributors are located and may transport them to his premises provided that he is also a holder of a beverage cartage permit. The transporter may acquire the alcoholic beverages only on the written order of the holder of the mixed beverage permit. The alcoholic beverages must be accompanied by a written statement furnished and signed by the local distributor showing the name and address of the consignee and consignor, the origin and destination of the shipment, and any other information required by the commission or administrator. The person in charge of the alcoholic beverages while they are being transported shall exhibit the written statement to any representative of the commission or any peace officer on demand, and the statement shall be accepted by the representative or officer as prima facie evidence of the lawful right to transport the alcoholic beverages.

Text of subsection effective on September 1, 2021

(b) If a holder of a mixed beverage permit is in a county where there are no local distributors, the permit holder may purchase alcoholic beverages in the nearest county where local distributors are located and may transport them to the permit holder's premises. The transporter may acquire the alcoholic beverages only on the written order of the holder of the mixed beverage permit. The alcoholic beverages must be accompanied by a written statement furnished and signed by the local distributor showing the name and address of the consignee and consignor, the origin and destination of the shipment, and any other information required by the commission or administrator. The person in charge of the alcoholic beverages while they are being transported shall exhibit the written statement to any representative of the commission or any peace officer on demand, and the statement shall be accepted by the representative or officer as prima facie evidence of the lawful right to transport the alcoholic beverages.

Text of subsection effective until September 1, 2021

(c) If a mixed beverage permittee holds a beverage cartage permit and his premises are located in a regional airport governed by a board, commission, or authority composed of members from two or

more counties, and there is no local distributor at the airport, the mixed beverage permittee may purchase alcoholic beverages from any local distributor in a trade area served by the airport and transport them to his licensed premises. The transportation of the beverages must be in accordance with Subsection (b) of this section.

Text of subsection effective on September 1, 2021

(c) If a mixed beverage permittee's premises are located in a regional airport governed by a board, commission, or authority composed of members from two or more counties, and there is no local distributor at the airport, the mixed beverage permittee may purchase alcoholic beverages from any local distributor in a trade area served by the airport and transport the alcoholic beverages to the permit holder's licensed premises. The transportation of the beverages must be in accordance with Subsection (b).

Text of subsection effective on September 1, 2021

(d) The holder of a mixed beverage permit may transfer alcoholic beverages from the place of purchase to the permitted premises as provided in this code.

Acts 1977, 65th Leg., p. 431, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 1182, ch. 453, Sec. 5, eff. Sept. 1, 1977; Acts 1993, 73rd Leg., ch. 934, Sec. 35, eff. Sept. 1, 1993. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 120, eff. September 1, 2021.

Sec. 28.08. REFILLING CONTAINERS PROHIBITED. No holder of a mixed beverage permit may refill with any substance a container which contained distilled spirits on which the tax prescribed in Section 201.03 of this code has been paid.

Acts 1977, 65th Leg., p. 432, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 28.081. SUBSTITUTION OF BRAND WITHOUT CONSENT OF CONSUMER PROHIBITED. (a) The holder of a mixed beverage permit or a private club permit, or the agent, servant, or employee of a holder of a mixed beverage permit or private club permit commits an offense if the holder, agent, servant, or employee substitutes one brand of

alcoholic beverage for a brand that has been specifically requested by a consumer, unless the consumer is notified and consents to the substitution.

(b) A holder of a permit who violates Subsection (a) of this section is liable in a civil suit to a consumer for damages resulting from the substitution. The court shall award the prevailing party in an action under this section attorney's fees and costs of action.

(c) The commission shall provide written notice of the provisions of this section to an applicant or permittee when issuing an original or renewal mixed beverage permit or private club permit on or after October 1, 1993.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 36, eff. Sept. 1, 1993.

Sec. 28.09. INVALIDATION OF STAMP. (a) A holder of a mixed beverage permit or any person employed by the holder who empties a bottle containing distilled spirits on which the tax prescribed in Section 201.03 of this code has been paid, shall immediately after emptying the bottle invalidate the identification stamp on the bottle in the manner prescribed by rule or regulation of the commission or administrator.

(b) Each holder of a mixed beverage permit shall provide at all service counters where distilled spirits are poured from bottles the necessary facilities for the invalidation of identification stamps on bottles so that persons emptying distilled spirits bottles may immediately invalidate the identification stamps on them.

(c) If an empty distilled spirits bottle has locked on it an automatic measuring and dispensing device of a type approved by the commission or administrator, which prevents the refilling of the bottle without unlocking the device and removing it from the bottle, the identification stamp is not required to be invalidated until immediately after the device has been unlocked and removed from the bottle.

(d) A holder of a mixed beverage permit or any of his officers, agents, or employees who is found in possession of an empty distilled spirits bottle which contained distilled spirits on which the tax prescribed in Section 201.03 of this code has been paid and on which the identification stamp has not been invalidated in accordance with this section commits a separate offense for each bottle so possessed.

Acts 1977, 65th Leg., p. 432, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 28.10. CONSUMPTION RESTRICTED TO PREMISES; EXCEPTIONS. (a) Except as provided by this section or Sections 28.01(b) and 28.1001, a mixed beverage permittee may not sell an alcoholic beverage to another mixed beverage permittee or to any other person except for consumption on the seller's licensed premises.

Text of subsection effective until September 1, 2021

(b) A mixed beverage permittee may not permit any person to take any alcoholic beverage purchased on the licensed premises from the premises where sold, except that:

(1) a person who orders wine with food and has a portion of the open container remaining may remove the open container of wine from the premises; and

(2) a mixed beverage permittee who also holds a brewpub license may sell or offer without charge on the premises of the brewpub, to an ultimate consumer for consumption on or off the premises, malt liquor, ale, or beer produced by the permittee, in or from a lawful container in an amount that does not exceed one-half barrel, provided that the aggregate amount of malt liquor, ale, and beer removed from the premises under this subdivision does not exceed 1,000 barrels annually.

Text of subsection effective on September 1, 2021

(b) A mixed beverage permittee may not permit any person to take any alcoholic beverage purchased on the licensed premises from the premises where sold, except that:

(1) a person who orders wine with food and has a portion of the open container remaining may remove the open container of wine from the premises; and

(2) a mixed beverage permittee who also holds a brewpub license may sell or offer without charge on the premises of the brewpub, to an ultimate consumer for consumption on or off the premises, malt beverages produced by the permittee, in or from a lawful container in an amount that does not exceed one-half barrel, provided that the aggregate amount of malt beverages removed from the premises under this subdivision does not exceed 1,000 barrels annually.

(c) A mixed beverage permit holder who holds a food and

beverage certificate may designate as part of the permit holder's premises a secured noncontiguous area located on a public sidewalk adjoining the premises if the designation is authorized by city ordinance. The ordinance may specify and limit the areas of the municipality in which this subsection is applicable. Alcoholic beverages may be delivered by an employee of the permit holder to patrons for consumption in the designated sidewalk area.

Acts 1977, 65th Leg., p. 432, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 2001, 77th Leg., ch. 1274, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 409 (S.B. 952), Sec. 1, eff. June 15, 2007.

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

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 121, eff. September 1, 2021.

Sec. 28.1001. OFF-PREMISES DELIVERY OF ALCOHOLIC BEVERAGES. (a) Notwithstanding any other provision of this code, the holder of a mixed beverage permit may deliver, or have delivered by a third party, including an independent contractor acting under Chapter 57, an alcoholic beverage from the permitted premises to an ultimate consumer located off-premises and in an area where the sale of the beverage is legal if:

(1) the holder of the mixed beverage permit holds a food and beverage certificate for the permitted premises;

(2) the delivery of the alcoholic beverage is made as part of the delivery of food prepared at the permitted premises;

(3) the alcoholic beverage is:

(A) beer, ale, or wine delivered in an original container sealed by the manufacturer; or

(B) an alcoholic beverage other than beer, ale, or wine, delivered in an original, single-serving container sealed by the manufacturer and not larger than 375 milliliters; and

(4) the delivery is not made to a premises that is permitted or licensed under this code.

(b) An alcoholic beverage may be delivered under this section

only by a person who is 21 years of age or older.

(c) An alcoholic beverage may be delivered under this section only to a person who is 21 years of age or older after the person accepting the delivery presents valid proof of identity and age and:

(1) the person accepting the delivery personally signs a receipt, which may be electronic, acknowledging the delivery; or

(2) the person making the delivery acknowledges the completion of the delivery through a software application.

(d) This section does not authorize the holder of a brewpub license who also holds a wine and beer retailer's permit to deliver alcoholic beverages directly to ultimate consumers for off-premise consumption at a location other than the licensed premises.

Added by Acts 2019, 86th Leg., R.S., Ch. 441 (S.B. 1450), Sec. 2, eff. September 1, 2019.

Sec. 28.101. PUBLIC CONSUMPTION. (a) This section applies only to a mixed beverage permit holder whose premises are located in a municipality that:

(1) has a population of less than 15,000;

(2) is located in a county with a population of less than 65,000; and

(3) contains a historic preservation district that borders a lake.

(b) Notwithstanding Section 28.10 or any other law, the holder of a mixed beverage permit whose permitted premises are located on property owned by a municipality that contains a municipally owned conference center and that borders a lake may permit a patron to leave the permitted premises, even though the patron possesses an alcoholic beverage, if:

(1) the beverage is in an open container and appears to be possessed for present consumption; and

(2) the public consumption of alcoholic beverages or possession of an open container of an alcoholic beverage is not prohibited on the municipally owned property where the permitted premises are located.

(c) This section does not affect the prohibition against possessing an open container in a passenger area of a motor vehicle under Section 49.031, Penal Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1045 (H.B. 4498), Sec. 1, eff. September 1, 2009.

Sec. 28.11. BREACH OF PEACE. The commission or administrator may suspend or cancel a mixed beverage permit after giving the permittee notice and the opportunity to show compliance with all requirements of law for the retention of the permit if it finds that a breach of the peace has occurred on the licensed premises or on premises under the control of the permittee and that the breach of the peace was not beyond the control of the permittee and resulted from his improper supervision of persons permitted to be on the licensed premises or on premises under his control.

Acts 1977, 65th Leg., p. 432, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 28.12. SALE OF MALT BEVERAGES TO PERMITTEE. The sale of malt beverages to a mixed beverage permittee by a local distributor's permittee or by a licensee authorized to sell them for resale is subject to the provisions of Section 61.73 of this code.

Acts 1977, 65th Leg., p. 433, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 28.13. ISSUANCE OF PERMIT FOR CERTAIN BOATS. (a) A mixed beverage permit may be issued for a boat if:

(1) the boat:

(A) carries at least 350 passengers;

(B) weighs at least 90 gross tons; and

(C) is at least 80 feet long; and

(2) the home port of the boat is in an area where the sale of mixed beverages is legal.

(a-1) A mixed beverage permit may be issued for a regularly scheduled excursion boat that is licensed by the United States Coast Guard to carry passengers on the navigable waters of the state if:

(1) the boat:

(A) carries at least 45 passengers;

(B) weighs at least 35 gross tons; and

(C) is at least 55 feet long;

(2) the home port of the boat is in an area where the sale of mixed beverages is legal; and

(3) the owner or operator of the boat is the sole permit holder for the boat.

(b) For purposes of Section 11.38 of this code, the home port of the boat is treated as the location of the licensed premises.

(c) Repealed by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 21.05.

(d) A mixed beverage permit may be issued under this section to a boat regularly used for voyages in international waters regardless of whether the sale of mixed beverages is lawful in the area of the home port. A person having authority to deliver alcoholic beverages to a mixed beverage permit holder in the county where the licensed premises is located may deliver alcoholic beverages purchased by the permit holder. Subsections (a)(2) and (a-1)(2) do not apply to this subsection.

(e) The provisions of Section 109.53 that relate to residency requirements and compliance with Texas laws of incorporation:

(1) do not apply to the holders of a mixed beverage permit under Subsection (a); and

(2) do apply to the holder of a mixed beverage permit under Subsection (a-1).

(f) A permit for an excursion boat issued under Subsection (a-1) is inoperative in a dry area.

Added by Acts 1985, 69th Leg., ch. 540, Sec. 1, eff. June 12, 1985.
Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 21.02, 21.05, eff. Jan. 11, 2004.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 294 (H.B. 1248), Sec. 1, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(a)(11), eff. September 1, 2021.

Sec. 28.135. DESIGNATION OF LICENSED PREMISES FOR PERMITS COVERING CERTAIN COUNTY-OWNED FACILITIES. (a) This section applies only to a facility that is:

(1) partially located in a municipality that:

(A) has a population of less than 40,000; and

(B) is located in a county with a population less than 70,000; and

(2) a county-owned civic center that consists of adjacent buildings not all of which are located in the municipality described by Subdivision (1).

(b) Notwithstanding any other law, all buildings comprising a facility described by Subsection (a) may be designated as and considered the licensed premises for purposes of a mixed beverage permit covering the facility.

Added by Acts 2015, 84th Leg., R.S., Ch. 151 (H.B. 601), Sec. 1, eff. September 1, 2015.

Sec. 28.14. MERGER OR CONSOLIDATION OF CORPORATIONS HOLDING MIXED BEVERAGE PERMITS. When two or more corporations which have substantially similar ownership and which hold mixed beverage permits issued by the commission merge or consolidate and pay to the commission a $100 fee for each licensed premises, the surviving corporation shall succeed to all the privileges of such corporations in the permits held by such corporations provided the surviving corporation is qualified to hold such permits under this code. For purposes of this section, two corporations have substantially similar ownership if 90 percent or more of both corporations is owned by the same persons.

Added by Acts 1989, 71st Leg., 1st C.S., ch. 36, Sec. 4, eff. Oct. 18, 1989.

Sec. 28.15. STAMPS. (a) Except as provided by Sections 14.07 and 37.01(d), a mixed beverage permittee may not possess or permit a person to possess on the premises distilled spirits in any container that does not bear a serially numbered identification stamp issued by the commission or other identification approved by the commission.

(b) A holder of a local distributor's permit may not knowingly sell, ship, or deliver distilled spirits in any container that does not bear a serially numbered identification stamp issued by the commission or other identification approved by the commission.

(c) Identification stamps may be issued only to a holder of a

local distributor's permit who shall affix the stamps as prescribed by the commission or administrator.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 37, eff. Jan. 1, 1994.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 792 (H.B. 1997), Sec. 5, eff. September 1, 2019.

Sec. 28.151. POSSESSION OF CERTAIN STAMPS. A mixed beverage permittee may not possess a stamp used to show payment of a tax unless the stamp is affixed to a bottle or container of liquor.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1008 (H.B. 2460), Sec. 1, eff. September 1, 2013.

Sec. 28.16. PERMIT INELIGIBILITY. A mixed beverage permit may not be issued to:

(1) a person whose permit was canceled for a violation of Section 28.06(c) of this code;

(2) a person who held an interest in a permit that was canceled for a violation of Section 28.06(c) of this code;

(3) a person who held 50 percent or more of the stock, directly or indirectly, of a corporation whose permit was canceled for a violation of Section 28.06(c) of this code;

(4) a corporation, if a person holding 50 percent or more of the corporation's stock, directly or indirectly, is disqualified from obtaining a permit under Subdivision (3) of this section; or

(5) a person who resides with a person who is barred from obtaining a permit because of a violation of Section 28.06(c) of this code.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 37, eff. Jan. 1, 1994.

Sec. 28.17. SUMMARY SUSPENSION. (a) The commission may summarily suspend, without a hearing, the permit of a permittee who fails to file a return, post the security required by the comptroller under Section 183.053, Tax Code, or make a tax payment. The administrative procedure law, 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 provided. Notice of suspension shall be sent by registered or certified mail to the permittee or the permittee's agent, servant, or employee if not given in person.

(c) The commission shall terminate a suspension made under this section when the permittee files all required returns, posts the security required by the comptroller under Section 183.053, Tax Code, and makes all required tax payments, including payment of penalties that are due.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 37, eff. Jan. 1, 1994. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1001, Sec. 6, eff. Aug. 28, 1995.

Sec. 28.18. FOOD AND BEVERAGE CERTIFICATE. (a) In this section, "location" means the designated physical address of the mixed beverage 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 mixed beverage permit may be issued a food and beverage certificate by the commission if 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) Repealed by Acts 2017, 85th Leg., R.S., Ch. 466 (H.B. 2101), Sec. 5, eff. September 1, 2017.

(e) A certificate issued under this section expires on the expiration of the primary mixed beverage 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 mixed beverage permit. A mixed beverage permit issued in an area where the legal sale of mixed beverages was authorized by a local option election under Section 501.035(b)(9), Election Code, is canceled by operation of law if the food and beverage certificate is canceled or is not renewed. The holder of a mixed beverage 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.

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

Added by Acts 1995, 74th Leg., ch. 1060, Sec. 6, eff. Aug. 28, 1995.
Amended by Acts 2001, 77th Leg., ch. 853, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1045, Sec. 2, eff. Sept. 1, 2001.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 466 (H.B. 2101), Sec. 2, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 466 (H.B. 2101), Sec. 5, eff. September 1, 2017.

Text of section effective on September 1, 2021

Sec. 28.19. SALES AT TEMPORARY LOCATION. (a) The holder of a mixed beverage permit may temporarily sell authorized alcoholic beverages at:

(1) a picnic, celebration, or similar event; or

(2) a place other than the premises for which the holder's mixed beverage permit is issued only in:

(A) an area where the sale of mixed beverages has been authorized by a local option election; or

(B) an area that:

(i) is adjacent to a county with a home-rule municipality with a population of more than 350,000:

(a) that has in its charter a provision allowing for limited purpose annexation for zoning;

(b) that has previously disannexed territory annexed for limited purposes; and

(c) that allows the sale of mixed beverages;

(ii) does not comprise an entire county; and

(iii) is not within the corporate limits of a municipality.

(b) Distilled spirits sold at a temporary location under this section must be purchased from the holder of a local distributor's permit.

(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 alcoholic 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 alcoholic beverages under this section;

(3) detail the circumstances when a permit holder may temporarily sell alcoholic 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 alcoholic beverages under this section;

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

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

(d) Notwithstanding any other law, the temporary sale of alcoholic beverages by a mixed beverage permit holder under this section in an area located on property owned by a municipality that contains a municipally owned conference center and that borders a

lake may permit a patron to leave the area, even though the patron possesses an alcoholic beverage, if:

(1) the beverage is in an open container and appears to be possessed for present consumption; and

(2) the public consumption of alcoholic beverages or possession of an open container of an alcoholic beverage is not prohibited on the municipally owned property where the area is located.

(e) Subsection (d) applies only to a mixed beverage permit holder operating under this section in an area in a municipality that:

(1) has a population of less than 15,000;

(2) is located in a county with a population of less than 65,000; and

(3) contains a historic preservation district that borders a lake.

(f) Subsection (d) does not affect the prohibition against possessing an open container in a passenger area of a motor vehicle under Section 49.031, Penal Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 122, eff. September 1, 2021.

Text of chapter effective until September 1, 2021

Text of chapter effective until September 1, 2021

CHAPTER 29. MIXED BEVERAGE LATE HOURS PERMIT

Text of section effective until September 1, 2021

Sec. 29.01. AUTHORIZED ACTIVITIES. The holder of a mixed beverage late hours permit may sell mixed beverages on Sunday between the hours of 1:00 a. m. and 2 a. m. and on any other day between the hours of 12 midnight and 2 a. m. if the premises covered by the permit are in an area where the sale of mixed beverages during those hours is authorized by this code.

Acts 1977, 65th Leg., p. 433, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 123, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 29.02. FEE. The annual state fee for a mixed beverage late hours permit is $150.

Acts 1977, 65th Leg., p. 433, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1346, ch. 278, Sec. 20, eff. Sept. 1, 1983.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 123, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 29.03. APPLICATION OF PROVISIONS REGULATING MIXED BEVERAGE PERMITS. All provisions of this code which apply to a mixed beverage permit also apply to a mixed beverage late hours permit.

Acts 1977, 65th Leg., p. 433, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 123, eff. September 1, 2021.

Text of chapter effective on September 1, 2021

Text of chapter effective on September 1, 2021

CHAPTER 29. RETAILER LATE HOURS CERTIFICATE

Text of section effective on September 1, 2021

Sec. 29.01. ELIGIBLE PERMIT AND LICENSE HOLDERS. A retailer late hours certificate may be issued to the holder of a mixed beverage permit, private club registration permit, or retail dealer's on-premise license.

Acts 1977, 65th Leg., p. 433, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 123, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 29.02. AUTHORIZED ACTIVITIES. The holder of a retailer late hours certificate may sell or serve the alcoholic beverages the holder is authorized to sell or serve under its primary permit or license on Sunday between the hours of 1:00 a.m. and 2 a.m. and on any other day between the hours of 12 midnight and 2 a.m. if the premises covered by the license or permit are in an area where the sale or service of those alcoholic beverages during those hours is authorized by this code.

Acts 1977, 65th Leg., p. 433, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1346, ch. 278, Sec. 20, eff. Sept. 1, 1983.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 123, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 29.03. ISSUANCE OF CERTIFICATE AUTHORIZED FOR CERTAIN AREAS. (a) Notwithstanding any other provision of this code, a retailer late hours certificate may be issued to the holder of a retail dealer's on-premise license in an area in which the voters have approved the following alcoholic beverage ballot issues in a local option election:

(1) either:

(A) "The legal sale of beer and wine for off-premise consumption only."; or

(B) "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 certificate 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 certificate under this chapter only if the premises is issued a food and beverage certificate.

Acts 1977, 65th Leg., p. 433, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 123, eff. September 1, 2021.

Text of chapter effective until September 1, 2021

Text of chapter effective until September 1, 2021
CHAPTER 30. DAILY TEMPORARY MIXED BEVERAGE PERMIT

Text of section effective until September 1, 2021
Sec. 30.01. AUTHORIZED ACTIVITIES. The holder of a daily temporary mixed beverage permit may sell mixed beverages for consumption on the premises for which the permit is issued.

Acts 1977, 65th Leg., p. 433, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 124, eff. September 1, 2021.

Text of section effective until September 1, 2021
Sec. 30.02. FEE. The state fee for a daily temporary mixed beverage permit is $50 per day.

Acts 1977, 65th Leg., p. 433, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1346, ch. 278, Sec. 20, eff. Sept. 1, 1983.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 124, eff. September 1, 2021.

Text of section effective until September 1, 2021
Sec. 30.03. ISSUANCE OF PERMIT. (a) The commission may, in its discretion, issue on a temporary basis a daily temporary mixed beverage permit. A daily temporary mixed beverage permit may be issued only to a holder of a mixed beverage permit for the temporary sale of authorized alcoholic beverages at picnics, celebrations, or similar events, or to a political party or political association supporting a candidate for public office or a proposed amendment to

the Texas Constitution or other ballot measure, to an organization formed for a specific charitable or civic purpose, to a fraternal organization in existence for over five years with a regular membership, or to a religious organization. The commission shall not issue more than 10 temporary mixed beverage permits in each calendar year to a person who does not also hold a mixed beverage permit.

(b) The provisions of this code which apply to the application for and issuance of other permits do not apply to the application and issuance of a daily temporary mixed beverage permit.

Acts 1977, 65th Leg., p. 433, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 1971, ch. 777, Sec. 17, eff. Aug. 27, 1979; Acts 1983, 68th Leg., p. 4626, ch. 790, Sec. 1, eff. Sept. 1, 1983; Acts 1993, 73rd Leg., ch. 377, Sec. 2, eff. June 2, 1993; Acts 1993, 73rd Leg., ch. 934, Sec. 38, eff. Sept. 1, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 124, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 30.04. PURCHASE OF DISTILLED SPIRITS. Distilled spirits sold under a daily temporary mixed beverage permit must be purchased from the holder of a local distributor's permit.

Acts 1977, 65th Leg., p. 434, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 124, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 30.05. APPLICATION OF PROVISIONS REGULATING MIXED BEVERAGE PERMITS. All provisions of this code applicable to a mixed beverage permit also apply to a daily temporary mixed beverage permit unless there is a special provision to the contrary.

Acts 1977, 65th Leg., p. 434, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 124, eff.

September 1, 2021.

Text of section effective until September 1, 2021

Sec. 30.06. ADOPTION OF RULES. The commission may adopt rules which it determines to be necessary to implement and administer the provisions of this chapter, including limitations on the number of times during any calendar year a qualified organization may be issued a permit.

Acts 1977, 65th Leg., p. 434, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 124, eff. September 1, 2021.

Text of chapter effective on September 1, 2021

Text of chapter effective on September 1, 2021

CHAPTER 30. NONPROFIT ENTITY TEMPORARY EVENT PERMIT

Text of section effective on September 1, 2021

Sec. 30.01. DEFINITION. In this chapter, "nonprofit entity" means:

(1) a nonprofit corporation;

(2) a nonprofit charitable, civic, or religious organization;

(3) a political party or political association supporting a candidate for public office or a proposed amendment to the Texas Constitution or other ballot measure;

(4) a fraternal organization with a regular membership that has been in continuous existence for more than five years; or

(5) a person or group of persons who are subject to recordkeeping requirements under Chapter 254, Election Code.

Acts 1977, 65th Leg., p. 433, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 124, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 30.02. AUTHORIZED ACTIVITIES. The holder of a nonprofit entity temporary event permit may sell for consumption on the premises for which the permit is issued any alcoholic beverage that is authorized to be sold where the event is held.

Acts 1977, 65th Leg., p. 433, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1346, ch. 278, Sec. 20, eff. Sept. 1, 1983.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 124, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 30.03. ISSUANCE OF PERMIT. The commission may issue a nonprofit entity temporary event permit to a nonprofit entity for the sale of alcoholic beverages at an event sponsored by the permit holder including picnics, celebrations, or similar events.

Acts 1977, 65th Leg., p. 433, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 1971, ch. 777, Sec. 17, eff. Aug. 27, 1979; Acts 1983, 68th Leg., p. 4626, ch. 790, Sec. 1, eff. Sept. 1, 1983; Acts 1993, 73rd Leg., ch. 377, Sec. 2, eff. June 2, 1993; Acts 1993, 73rd Leg., ch. 934, Sec. 38, eff. Sept. 1, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 124, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 30.04. NOTATION OF DATES PERMIT IS VALID. When issuing a nonprofit entity temporary event permit under this chapter, the commission shall, on the face of the permit, indicate the dates on which the permit is valid.

Acts 1977, 65th Leg., p. 434, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 124, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 30.05. PURCHASE OF DISTILLED SPIRITS. Distilled spirits sold by the holder of a nonprofit entity temporary event permit must be purchased from the holder of a local distributor's permit.

Acts 1977, 65th Leg., p. 434, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 124, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 30.06. AUCTION OF ALCOHOLIC BEVERAGES. (a) The holder of a nonprofit entity temporary event permit may auction alcoholic beverages, for consumption off premises, to raise money to support the stated purpose of the permit holder.

(b) The proceeds from an auction authorized by this section shall be deposited to the account of the holder of a nonprofit entity temporary event permit.

(c) The holder of a nonprofit entity temporary event permit may not:

(1) auction distilled spirits or wine that has not been donated to the organization;

(2) auction alcoholic beverages if any taxes are owed on the beverages; or

(3) pay a commission or promotional allowance to a person to:

(A) arrange or conduct an auction under this section; or

(B) arrange the donation of alcoholic beverages to be auctioned by the organization.

Acts 1977, 65th Leg., p. 434, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 124, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 30.07. APPLICATION OF OTHER LAW. Section 11.39 does not apply to an applicant for a nonprofit entity temporary event permit.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 124, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 30.08. ADOPTION OF RULES. The commission shall adopt rules which it determines to be necessary to implement and administer the provisions of this chapter, including:

(1) limitations on the number of times during any calendar year a nonprofit entity may be issued a permit under this chapter, which may vary based on the type of entity and other factors the commission determines relevant;

(2) the duration for a permit issued under this chapter which may vary depending on the length of the event for which the permit is being issued; and

(3) penalties for a violation of this code or a rule adopted under this code.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 124, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 30.09. EVENTS IN DRY AREA. (a) The commission may issue a nonprofit entity temporary event permit to a nonprofit corporation for a fund-raising event for the nonprofit corporation that is located in a dry area.

(b) A nonprofit entity temporary event permit under this section may only be issued for an event:

(1) in the county where the nonprofit corporation is located; and

(2) that lasts not longer than eight hours.

(c) A nonprofit corporation may be issued only one nonprofit entity temporary event permit under this section in each calendar

year.

(d) The commission by rule shall establish the procedure for obtaining and operating under a nonprofit entity temporary event permit issued under this section.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 124, eff. September 1, 2021.

Text of chapter effective until September 1, 2021

CHAPTER 31. CATERER'S PERMIT

Text of section effective until September 1, 2021

Sec. 31.01. AUTHORIZED ACTIVITIES. The holder of a caterer's permit may sell mixed beverages on a temporary basis at a place other than the premises for which the holder's mixed beverage permit is issued only in:

(1) an area where the sale of mixed beverages has been authorized by a local option election; or

(2) an area that:

(A) is adjacent to a county with a home-rule municipality with a population of more than 350,000:

(i) that has in its charter a provision allowing for limited purpose annexation for zoning;

(ii) that has previously disannexed territory annexed for limited purposes; and

(iii) that allows the sale of mixed beverages;

(B) does not comprise an entire county; and

(C) is not within the corporate limits of a municipality.

Acts 1977, 65th Leg., p. 434, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 39, eff. Sept. 1, 1993.

Text of section effective until September 1, 2021

Sec. 31.02. FEE. The annual state fee for a caterer's permit is $500.

Acts 1977, 65th Leg., p. 434, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 1347, ch. 278, Sec. 21, eff. Sept. 1, 1983.

Text of section effective until September 1, 2021

Sec. 31.03. ISSUANCE OF PERMIT. (a) A caterer's permit may be issued only to the holder of a mixed beverage permit.

(b) The commission shall adopt rules and regulations governing the application for and the issuance and use of caterer's permits.

(c) The provisions of this code which apply to the application for and issuance of other permits do not apply to the application for and issuance of a caterer's permit.

Acts 1977, 65th Leg., p. 434, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 31.04. APPLICATION OF PROVISIONS REGULATING MIXED BEVERAGE PERMITS. (a) A caterer's permit is auxiliary to the primary mixed beverage permit held by the permittee.

(b) The restrictions and regulations which apply to the sale of mixed beverages on the licensed premises also apply to the sale under the authority of a caterer's permit, and any act that is prohibited on the licensed premises is also prohibited when the permittee is operating other than on the licensed premises under a caterer's permit.

(c) Any act which if done on the licensed premises would be a ground for cancellation or suspension of the mixed beverage permit is a ground for cancellation of both the mixed beverage permit and the caterer's permit if done when the permittee is operating away from the licensed premises under the authority of the caterer's permit.

(d) All receipts from the sale of mixed beverages under the authority of the caterer's permit shall be treated for tax purposes as if they were made under the authority of the primary permit.

(e) If the primary permit ceases to be valid for any reason, the caterer's permit ceases to be valid.

(f) All provisions of this code applicable to the primary permit and not inconsistent with this chapter apply to a caterer's permit.

Acts 1977, 65th Leg., p. 434, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 31.06. PUBLIC CONSUMPTION. (a) This section applies only to the holder of a caterer's permit operating under the permit in an area in a municipality that:

(1) has a population of less than 15,000;

(2) is located in a county with a population of less than 65,000; and

(3) contains a historic preservation district that borders a lake.

(b) Notwithstanding any other law, the holder of a caterer's permit operating under the permit in an area located on property owned by a municipality that contains a municipally owned conference center and that borders a lake may permit a patron to leave the area, even though the patron possesses an alcoholic beverage, if:

(1) the beverage is in an open container and appears to be possessed for present consumption; and

(2) the public consumption of alcoholic beverages or possession of an open container of an alcoholic beverage is not prohibited on the municipally owned property where the area is located.

(c) This section does not affect the prohibition against possessing an open container in a passenger area of a motor vehicle under Section 49.031, Penal Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1045 (H.B. 4498), Sec. 2, eff. September 1, 2009.

CHAPTER 32. PRIVATE CLUB REGISTRATION PERMIT

Sec. 32.01. AUTHORIZED ACTIVITIES. (a) A private club registration permit authorizes alcoholic beverages belonging to members of the club to be:

(1) stored, possessed, and mixed on the club premises; and

(2) served for on-premises consumption only to members of the club and their families and guests, by the drink or in sealed, unsealed, or broken containers of any legal size.

Text of subsection effective until September 1, 2021

(b) An applicant for or the holder of a private club registration permit may apply to the commission to have the activities authorized under the permit restricted to the storage and service of wine, beer, and malt liquor for members of the club. Except as otherwise provided by this chapter, an applicant for or the holder of a permit that is restricted under this subsection is subject to all the requirements of this chapter. The commission may adopt rules as necessary to implement this subsection.

Text of subsection effective on September 1, 2021

(b) An applicant for or the holder of a private club registration permit may apply to the commission to have the activities authorized under the permit restricted to the storage and service of wine and malt beverages for members of the club. Except as otherwise provided by this chapter, an applicant for or the holder of a permit that is restricted under this subsection is subject to all the requirements of this chapter. The commission may adopt rules as necessary to implement this subsection.

Acts 1977, 65th Leg., p. 435, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1993, 73rd Leg., ch. 290, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 125, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 32.02. FEES. (a) Each private club registration permittee shall pay an annual state fee for each separate place of business.

(b) The annual state fee shall be computed at the election of the permittee by using one of the following methods:

(1) A fee based on the highest number of members in good standing during the year for which the permit fee is paid according to the following rates:

0	to	250 members	--	$ 750
251	to	450 members	--	$1,350
451	to	650 members	--	$1,950

651	to	850 members	--	$2,550
851	to	1,000 members	--	$3,000
Over 1,000 members			--	$3 per member; or

(2) Except as provided by Subsection (d) of this section, a fee for an original private club registration permit of $3,500, with a fee for the first renewal of a private club registration permit of $2,750, and a fee for the second and each subsequent renewal of a private club registration permit of $2,000.

(c) A permittee who elects to compute the permit fee based on Subsection (b)(1) of this section may not alter the method by which the fee is calculated until the second renewal or a renewal subsequent to the second renewal.

(d) A permit holder who has elected to restrict the holder's authorized activities under the permit as provided by Section 32.01(b) of this code shall pay an original permit fee of $1,500 and an annual renewal fee of $1,500.

(e) No later than 90 days before the expiration of the year for which the permit fee is paid, the permit holder may submit an amended application with as much additional fee as is required under the amended return.

(f) For a permittee who holds a valid permit on the effective date of this subsection and who elects to pay a permit fee as provided by Subsection (b)(2) of this section, the fee for renewal of that permit is:

(1) $2,750 for the first annual renewal since the original permit was issued; and

(2) $2,000 for a renewal subsequent to the first annual renewal.

(g) Fees collected under this section shall be deposited in the general revenue fund.

Acts 1977, 65th Leg., p. 435, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 1347, ch. 278, Sec. 22, eff. Sept. 1, 1984; Acts 1989, 71st Leg., ch. 1204, Sec. 1, eff. Jan. 1, 1990; Acts 1993, 73rd Leg., ch. 290, Sec. 2, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 934, Sec. 40, eff. Sept. 1, 1993.
Amended by:

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

409(b)(11), eff. September 1, 2021.

Sec. 32.03. QUALIFICATIONS FOR PERMIT. (a) A private club registration permit may only be issued to a club which meets the requirements of this section.

(b) The club must be an association of persons, whether unincorporated or incorporated under the laws of this state, for the promotion of some common object.

(c) Members of the club must be passed on and elected by a committee or board made up of members of the club, and no employee of the club shall be eligible to serve on the membership committee or board.

(d) No application for membership may be approved until the application has been filed with the chairman of the membership committee or board and approved by the chairman. The committee or board may authorize the chairman or a designated agent to issue preliminary memberships without the approval of the committee or board for a period not exceeding seven days on the request of an applicant for membership. A preliminary member has all of the privileges of membership in the club. If the committee or board does not approve the application before the expiration of the preliminary membership, the club shall pay to the state a fee of $3. The club shall remit the fees and record and report preliminary memberships as the commission or the administrator prescribes.

(e) At least 50 members of the club must reside in the county in which the premises of the club are located, or at least 100 members must reside in an area comprised of the county in which the premises of the club is located and an adjacent county or counties.

(f) The club must own, lease, or rent a building, or space in a building of such extent and character as in the judgment of the commission is suitable and adequate for the club's members and their guests.

(g) The club must provide regular food service adequate for its members and their guests.

(h) The club's total annual membership fees, dues, or other income, excluding proceeds from the disposition of alcoholic beverages but including service charges, must be sufficient to defray the annual rental of its leased or rented premises or, if the premises are owned by the club, sufficient to meet the taxes,

insurance, and repairs and the interest on any mortgage on the premises.

(i) The club's affairs and management must be conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting.

(j) No member or any officer, agent, or employee of the club may be paid or receive any money as salary or other compensation, directly or indirectly, from the disposition of alcoholic beverages to members of the club and their guests, other than charges for the service of the beverages.

(k) A private club registration permit may not be issued to or maintained by a club for a premises located in a dry area if the club operates a sexually oriented business, as defined by Section 243.002, Local Government Code, on the premises.

Acts 1977, 65th Leg., p. 436, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1971, ch. 777, Sec. 19, eff. Aug. 27, 1979; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 21.04(a), eff. Jan. 11, 2004.
Amended by:

Acts 2005, 79th Leg., Ch. 1262 (H.B. 2065), Sec. 1, eff. September 1, 2005.

Sec. 32.04. APPLICATIONS FOR PERMITS; RENEWALS. (a) A private club which meets the requirements set forth in Section 32.03 of this code may apply for a private club registration permit on forms furnished by the commission and containing all information necessary to insure compliance with the provisions of this code.

(b) Each applicant shall furnish a true copy of his application to the commission's district office in the district in which the premises sought to be covered by the permit are located prior to the filing of the original application with the commission at Austin.

(c) Applications for a renewal permit shall be filed with the commission within 30 days prior to the expiration of the current permit.

Acts 1977, 65th Leg., p. 437, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 32.05. LOCKER SYSTEM. The locker system of storage is a

system whereby the club rents a locker to a member in which he may store alcoholic beverages for consumption by himself and his guests. All alcoholic beverages stored at a club under the locker system must be purchased and owned by the member individually.

Acts 1977, 65th Leg., p. 437, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 32.06. POOL SYSTEM. (a) The pool system of storage may be used in any area. Under this system all members of a pool participate equally in the original purchase of all alcoholic beverages. The original purchase may be funded by a cash contribution from each member or from a loan to the club by a third person guaranteed by all the members. A person who provides a loan to the club under this subsection may be related or unrelated to the club. A loan for the original purchase may be repaid from the alcoholic beverages replacement account. The replacement of all alcoholic beverages shall be paid for either by money assessed equally from each member and collected in advance or by the establishment of an alcoholic beverages replacement account in which a designated percentage of each charge for the service of alcoholic beverages, as determined by the club's governing body, is deposited.

(b) If an alcoholic beverages replacement account is used:

(1) each service check may have printed on it the percentage of the service charge that is to be deposited in the alcoholic beverages replacement account;

(2) no money other than the designated percentage of service charges may be deposited in the replacement account;

(3) the replacement of alcoholic beverages may be paid for only from money in the replacement account;

(4) the club's governing body may transfer from the replacement account to the club's general operating account any portion of the replacement account that the governing body determines is in excess of the amount that will be needed to purchase replacement alcoholic beverages or repay a loan for the original purchase of alcoholic beverages, but it may make only one transfer in a calendar month; and

(5) the club shall maintain a monthly record of the total amount of alcoholic beverage service charges collected, the amount deposited in the replacement account, the amount used to purchase

alcoholic beverages or repay a loan for the original purchase of alcoholic beverages, and the amount transferred to the club's general operating account.

(c) A private club may combine the club's alcoholic beverages replacement account, general operating account, and any other account into a single master account if the master account is maintained in accordance with generally accepted accounting principles and the club is able to generate statements reflecting the funds allocated to each component account. If the club contracts with a third party to provide management or other services for the club, the club may permit the club's master account to be combined with the master accounts of other clubs to which the third party provides similar services if the combined account is maintained in accordance with generally accepted accounting principles and the third party is able to generate, for the commissioner's review on request, statements reflecting the funds allocated to each component account of the combined account and the club's master account.

Acts 1977, 65th Leg., p. 437, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 1968, ch. 777, Sec. 8, eff. Aug. 27, 1979; Acts 2001, 77th Leg., ch. 1046, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1262 (H.B. 2065), Sec. 2, eff. September 1, 2005.

Sec. 32.07. DISPLAY OF PERMIT. A private club registration permit shall be displayed in a conspicuous place at all times on the licensed premises.

Acts 1977, 65th Leg., p. 437, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 32.08. PURCHASE AND TRANSPORTATION OF ALCOHOLIC BEVERAGES. (a) All distilled spirits sold by a club holding a private club registration permit must be purchased in this state from a holder of a local distributor's permit.

Text of subsection effective until September 1, 2021

(b) If the club holding the permit is in an area where there

are no local distributors, alcoholic beverages may be purchased in any area where local distributors are located and may be transported to the club premises if the club also holds a beverage cartage permit. The transporter may acquire the alcoholic beverages only on the written order of an officer or manager of the club holding the permit. The alcoholic beverages must be accompanied by a written statement furnished and signed by the local distributor showing the name and address of the consignee and consignor, the origin and destination of the shipment, and any other information required by the commission or administrator. The person in charge of the alcoholic beverages while they are being transported shall exhibit the written statement to any representative of the commission or any peace officer on demand, and the statement shall be accepted by the representative or officer as prima facie evidence of the lawful right to transport the alcoholic beverages.

Text of subsection effective on September 1, 2021

(b) If the club holding the permit is in an area where there are no local distributors, alcoholic beverages may be purchased in any area where local distributors are located and may be transported to the club premises. The transporter may acquire the alcoholic beverages only on the written order of an officer or manager of the club holding the permit. The alcoholic beverages must be accompanied by a written statement furnished and signed by the local distributor showing the name and address of the consignee and consignor, the origin and destination of the shipment, and any other information required by the commission or administrator. The person in charge of the alcoholic beverages while they are being transported shall exhibit the written statement to any representative of the commission or any peace officer on demand, and the statement shall be accepted by the representative or officer as prima facie evidence of the lawful right to transport the alcoholic beverages.

Text of subsection effective until September 1, 2021

(c) If a private club registration permittee holds a beverage cartage permit and his premises are located in a regional airport governed by a board, commission, or authority composed of members from two or more counties, and there is no local distributor at the airport, the private club registration permittee may purchase alcoholic beverages from any local distributor in a trade area served by the airport and transport them to his licensed premises. The

transportation of the beverages must be in accordance with Subsection (b) of this section.

Text of subsection effective on September 1, 2021

(c) If a private club registration permittee's premises are located in a regional airport governed by a board, commission, or authority composed of members from two or more counties, and there is no local distributor at the airport, the private club registration permittee may purchase alcoholic beverages from any local distributor in a trade area served by the airport and transport the alcoholic beverages to the permit holder's licensed premises. The transportation of the beverages must be in accordance with Subsection (b).

Text of subsection effective on September 1, 2021

(d) The holder of a private club registration permit may transfer alcoholic beverages from the place of purchase to the permitted premises as provided in this code.

Acts 1977, 65th Leg., p. 437, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1977, 65th Leg., p. 1182, ch. 453, Sec. 6, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 126, eff. September 1, 2021.

Sec. 32.09. TEMPORARY MEMBERS. (a) The manager or other person in charge of the club premises may allow a person to enter the club if he possesses a valid temporary membership card which has no erasures or changes and which has the temporary dates in a prominent position on the card. A temporary member may enjoy the club's services and privileges for a period of not more than three days per invitation. A temporary member may bring not more than three guests to the club and must remain in their presence while they are at the club.

(b) At the time of his admission the temporary member shall pay the club a fee of $3, which shall represent the fee payable by the permittee to the state. All fees and payments from temporary members shall be collected in cash or through credit cards approved by the commission or administrator.

(c) Temporary memberships shall be governed by rules

promulgated by the commission consistent with the provisions of this section.

Acts 1977, 65th Leg., p. 438, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 68, ch. 42, Sec. 1, eff. Aug. 27, 1979; Acts 1983, 68th Leg., p. 1347, ch. 278, Sec. 23, eff. Sept. 1, 1984.

Sec. 32.10. GUESTS. (a) Guests shall be limited to those who accompany a member or temporary member onto the premises or for whom a member, other than a temporary member, has made prior arrangements with the management of the club.

(b) Except as provided in Subsection (c) of this section no guest shall be permitted to pay, by cash or otherwise, for any service of alcoholic beverages. Any charge for a service rendered to a guest by the club must be billed by the club to the member or temporary member sponsoring the guest. A club shall bill a member other than a temporary member for the service of guests in the club's regular billing cycle.

(c) The manager of a hotel who is a member of a private club located within the hotel building may issue a guest card to a patron of the hotel who is staying in the hotel overnight or longer. The holder of the guest card may be served alcoholic beverages in the club or the holder's hotel room. The guest may not be allowed to pay, by cash or otherwise, at the time of service in the private club. The charge for service shall be billed to the hotel manager's account in the hotel and shall be collected by the hotel manager along with other hotel charges, including the charge for using the hotel room, when the patron leaves the hotel. The hotel records shall be available for inspection at the request of the commission. If the club operates under the locker system a guest shall be served from the locker rented to the manager of the hotel.

(d) The commission shall promulgate rules necessary to implement the provisions of this section.

Acts 1977, 65th Leg., p. 438, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 68, ch. 42, Sec. 2, eff. Aug. 27, 1979; Acts 1985, 69th Leg., ch. 103, Sec. 1, eff. Sept. 1, 1985.

Sec. 32.11. FRATERNAL AND VETERANS ORGANIZATIONS. (a) In this section:

(1) "Fraternal organization" means:

(A) any chapter, aerie, parlor, lodge, or other local unit of an American national fraternal organization or Texas state fraternal organization that, as the owner, lessee, or occupant, has operated an establishment for fraternal purposes for at least one year. If an American national fraternal organization, it must actively operate in not fewer than 31 states and have at least 300 local units in those 31 states, and must have been in active, continuous existence for at least 20 years. If a Texas state fraternal organization, it must actively operate in at least two counties of the state and have at least 10 local units in those two counties, and must have been in active, continuous existence for at least five years;

(B) a hall association or building association of a local unit described in Paragraph (A), all the capital stock of which is owned by the local unit or the members of the local unit, and which operates the clubroom facilities of the local unit;

(C) a building association not owned by a local unit described in Paragraph (A) but one that is composed wholly of members appointed by a county commissioners court to administer, manage, and control an exposition center containing an exhibition area of not less than 100,000 square feet and an arena with not less than 6,000 fixed seats, situated on property with an area of not less than 50 acres that is owned, together with all buildings, appurtenances, and parking areas, by a county;

(D) a chapter or other local unit of an American national fraternal organization that promotes physical fitness and provides classes in athletics to children and that, as owner, lessee, or occupant, has operated an establishment for fraternal purposes for at least one year. The fraternal organization must:

(i) actively operate in not fewer than 12 states;

(ii) have at least six local units in this state; and

(iii) have at least one unit in this state that has been in active, continuous existence for at least 75 years; or

(E) a chapter or other local unit of an American national fraternal organization that promotes the moral, educational, social, and recreational welfare of merchant seafarers and that, as

owner, lessee, or occupant, has operated an establishment for fraternal purposes for at least one year. The fraternal organization must:

(i) actively operate in not fewer than 12 states;

(ii) have at least four local units in this state; and

(iii) have at least one unit in this state that has been in active, continuous existence for at least 15 years.

(2) "Veterans organization" means an organization composed of members or former members of the armed forces of the United States which is organized for patriotic and public service purposes, including the American Legion, Veterans of Foreign Wars, Disabled American Veterans, Jewish War Veterans, American GI Forum, Catholic War Veterans, or any veterans organization chartered by the United States Congress.

(b) The permit fee imposed by Section 32.02 and the provisions of Sections 32.03 and 32.10 requiring regular food service and prohibiting guests from paying in cash do not apply to a private club established by a fraternal or veterans organization. The private club is also exempt from Sections 32.05 and 32.06, and the members of the club may use any club funds owned by them jointly, including revenue from the service of alcoholic beverages, to replenish their joint stock of alcoholic beverages.

(c) The requirement that the fraternal or veterans organization hold a private club registration permit is satisfied by the issuance of a certificate by the commission that states that the organization meets the requirements of this section.

(d) All other provisions of this code apply to fraternal and veterans organizations.

(e) A fraternal or veterans organization that holds a permit under this chapter and the private club established under that permit are considered separate entities for the purposes of determining compliance with and enforcing this code. The fraternal or veterans organization shall establish a membership committee for the permitted entity for the purposes of Sections 32.03(c) and (d). Membership in the private club is governed by this code. Membership in the fraternal or veterans organization is not subject to the requirements of this code.

Acts 1977, 65th Leg., p. 439, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1987, 70th Leg., ch. 494, Sec. 2, eff. Aug. 31, 1987; Acts 1995, 74th Leg., ch. 338, Sec. 1, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 913, Sec. 1, eff. Sept. 1, 2003.
Amended by:
Acts 2005, 79th Leg., Ch. 1261 (H.B. 2064), Sec. 1, eff. June 18, 2005.

Sec. 32.12. INSPECTION OF PREMISES. The acceptance of a private club registration permit constitutes an express agreement and consent on the part of the private club that any authorized representative of the commission or any peace officer has the right and privilege to freely enter the club premises at any time to conduct an investigation or to inspect the premises for the purpose of performing a duty imposed by this code.

Acts 1977, 65th Leg., p. 439, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 32.13. INSPECTION OF BOOKS AND RECORDS. All books and records pertaining to the operation of any permittee club, including a current listing, correct to the last day of the preceding month, of all members of the club who have liquor stored on the club premises under either the locker or pool system, shall be made available to the commission or its authorized representatives on request.

Acts 1977, 65th Leg., p. 439, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 32.14. UNREGISTERED CLUBS; PROHIBITED ACTIVITIES. (a) No permittee, licensee, or any other person shall deliver, transport, or carry an alcoholic beverage to, into, or on the premises of any establishment, location, room, or place purporting to be a club, or holding itself out to the public or any person as a club or private club, unless the club holds a private club registration permit.

(b) No person may store, possess, mix, or serve by the drink or in broken or unsealed containers an alcoholic beverage on the premises of any establishment, location, room, or place purporting to be a club or private club unless the club holds a private club registration permit.

(c) An alcoholic beverage stored or possessed on the premises

of any establishment, location, room, or place purporting to be a club, or holding itself out to the public or any person as a club or private club, is declared to be an illicit beverage and subject to seizure without a warrant unless a private club registration permit has been issued for the premises, location, room, or place.

Acts 1977, 65th Leg., p. 440, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 32.15. REMOVAL OF BEVERAGES FROM PREMISES. A private club, irrespective of location or system of storage of alcoholic beverages, may not permit any person to remove any alcoholic beverages from the club premises, except as authorized by Section 28.10(b) or for the purpose of removing unused inventory the person brought onto the premises under Section 14.07 or 37.01(d).

Acts 1977, 65th Leg., p. 440, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1987, 70th Leg., ch. 494, Sec. 1, eff. Aug. 31, 1987.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 792 (H.B. 1997), Sec. 6, eff. September 1, 2019.

Sec. 32.16. UNAUTHORIZED MEMBERSHIP. No private club registration permittee may allow its average membership to exceed that authorized by its permit.

Acts 1977, 65th Leg., p. 440, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 32.17. CANCELLATION OR SUSPENSION OF PERMIT; GROUNDS.

Text of subsection effective until September 1, 2021

(a) The commission or administrator may cancel or suspend for a period of time not exceeding 60 days, after notice and hearing, an original or renewal private club registration permit on finding that the permittee club has:

(1) sold, offered for sale, purchased, or held title to any alcoholic beverage so as to constitute an open saloon;

(2) refused to allow an authorized agent or representative of the commission or a peace officer to come on the club premises for

the purposes of inspecting alcoholic beverages stored on the premises or investigating compliance with the provisions of this code;

(3) refused to furnish the commission or its agent or representative when requested any information pertaining to the storage, possession, serving, or consumption of alcoholic beverages on club premises;

(4) permitted or allowed any alcoholic beverages stored on club premises to be served or consumed at any place other than on the club premises;

(5) failed to maintain an adequate building at the address for which the private club registration permit was issued;

(6) caused, permitted, or allowed any member of a club in a dry area to store any liquor on club premises except under the locker system;

(7) caused, permitted, or allowed any person to consume or be served any alcoholic beverage on the club premises:

(A) at any time on Sunday between the hours of 1:15 a.m. and 10 a.m. or on any other day at any time between the hours of 12:15 a.m. and 7 a.m., if the club does not have a private club late hours permit, except that an alcoholic beverage served to a customer between 10 a.m. and 12 noon on Sunday must be provided during the service of food to the customer; or

(B) at any time on Sunday between the hours of 2 a.m. and 10 a.m. or on any other day at any time between the hours of 2 a.m. and 7 a.m., if the club has a private club late hours permit, except that an alcoholic beverage served to a customer between 10 a.m. and 12 noon on Sunday must be provided during the service of food to the customer; or

(8) violated or assisted, aided or abetted the violation of any provision of this code.

Text of subsection effective on September 1, 2021

(a) The commission or administrator may cancel or suspend for a period of time not exceeding 60 days, after notice and hearing, an original or renewal private club registration permit on finding that the permittee club has:

(1) sold, offered for sale, purchased, or held title to any alcoholic beverage so as to constitute an open saloon;

(2) refused to allow an authorized agent or representative of the commission or a peace officer to come on the club premises for the purposes of inspecting alcoholic beverages stored on the premises

or investigating compliance with the provisions of this code;

(3) refused to furnish the commission or its agent or representative when requested any information pertaining to the storage, possession, serving, or consumption of alcoholic beverages on club premises;

(4) permitted or allowed any alcoholic beverages stored on club premises to be served or consumed at any place other than on the club premises;

(5) failed to maintain an adequate building at the address for which the private club registration permit was issued;

(6) caused, permitted, or allowed any member of a club in a dry area to store any liquor on club premises except under the locker system;

(7) caused, permitted, or allowed any person to consume or be served any alcoholic beverage on the club premises:

(A) at any time on Sunday between the hours of 1:15 a.m. and 10 a.m. or on any other day at any time between the hours of 12:15 a.m. and 7 a.m., if the club does not have a retailer late hours certificate, except that an alcoholic beverage served to a customer between 10 a.m. and 12 noon on Sunday must be provided during the service of food to the customer; or

(B) at any time on Sunday between the hours of 2 a.m. and 10 a.m. or on any other day at any time between the hours of 2 a.m. and 7 a.m., if the club has a retailer late hours certificate, except that an alcoholic beverage served to a customer between 10 a.m. and 12 noon on Sunday must be provided during the service of food to the customer; or

(8) violated or assisted, aided or abetted the violation of any provision of this code.

(b) As used in Subsection (a)(1) of this section, the term "open saloon" means any place where an alcoholic beverage is sold or offered for sale for beverage purposes by the drink or in broken or unsealed containers, or a place where any alcoholic beverage is sold or offered for sale for on-premises consumption.

Text of subsection effective until September 1, 2021

(c) After notice and an opportunity for a hearing, the commission or administrator may cancel or suspend the private club registration permit of a permit holder who has restricted the holder's authorized activities under the permit as provided by Section 32.01(b) of this code on a determination that the permit

holder is storing or serving alcoholic beverages to club members other than, or in addition to, wine, beer, and malt liquor.

Text of subsection effective on September 1, 2021

(c) After notice and an opportunity for a hearing, the commission or administrator may cancel or suspend the private club registration permit of a permit holder who has restricted the holder's authorized activities under the permit as provided by Section 32.01(b) on a determination that the permit holder is storing or serving alcoholic beverages to club members other than, or in addition to, wine and malt beverages.

Acts 1977, 65th Leg., p. 440, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1993, 73rd Leg., ch. 290, Sec. 3, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 934, Sec. 41, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1002, Sec. 2, eff. Sept. 1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 127, eff. September 1, 2021.

Sec. 32.18. APPEALS FROM ORDERS OF COMMISSION OR ADMINISTRATOR. An appeal from an order of the commission or administrator refusing, cancelling, or suspending a private club registration permit shall be taken to the district court of the county in which the private club is located. The proceeding on appeal shall be under the substantial evidence rule. The rules applicable to ordinary civil suits apply, with the following exceptions, which shall be construed literally:

(1) all appeals shall be perfected and filed within 30 days after the order, decision, or ruling of the commission or administrator becomes final and appealable;

(2) all causes shall be tried before the judge within 20 days from the filing, and neither party shall be entitled to a jury; and

(3) the order, decision, or ruling of the commission or administrator may be suspended or modified by the district court pending a trial on the merits, but the final judgment of the district court shall not be modified or suspended pending appeal.

Acts 1977, 65th Leg., p. 441, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1981, 67th Leg., p. 2636, ch. 707, Sec. 4(19), eff.

Aug. 31, 1981.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 514 (H.B. 1956), Sec. 2, eff. September 1, 2011.

Sec. 32.19. AIDING OR ABETTING VIOLATION. A person who commits, assists, aids, or abets a violation of this chapter commits an offense.

Acts 1977, 65th Leg., p. 441, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 32.20. STAMPS. (a) Except as provided by Sections 14.07 and 37.01(d), a private club registration permittee may not possess or permit a person to possess on the premises distilled spirits in any container that does not bear a serially numbered identification stamp issued by the commission or other identification approved by the commission.

(b) A holder of a local distributor's permit may not knowingly sell, ship, or deliver distilled spirits in any container that does not bear a serially numbered identification stamp issued by the commission or other identification approved by the commission.

(c) Identification stamps may be issued only to a holder of a local distributor's permit who shall affix the stamps as prescribed by the commission or administrator.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 42, eff. Jan. 1, 1994.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 792 (H.B. 1997), Sec. 7, eff. September 1, 2019.

Sec. 32.201. POSSESSION OF CERTAIN STAMPS. A private club registration permittee may not possess a stamp used to show payment of a tax unless the stamp is affixed to a bottle or container of liquor.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1008 (H.B. 2460), Sec. 2, eff. September 1, 2013.

Sec. 32.21. PERMIT INELIGIBILITY. A private club registration permit may not be issued to:

(1) a person whose permit was canceled for a violation of Section 28.06(c) of this code;

(2) a person who held an interest in a permit that was canceled for a violation of Section 28.06(c) of this code;

(3) a person who held 50 percent or more of the stock, directly or indirectly, of a corporation whose permit was canceled for a violation of Section 28.06(c) of this code;

(4) a corporation, if a person holding 50 percent or more of the corporation's stock, directly or indirectly, is disqualified from obtaining a permit under Subdivision (3) of this section; or

(5) a person who resides with a person who is barred from obtaining a permit because of a violation of Section 28.06(c) of this code.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 42, eff. Jan. 1, 1994.

Sec. 32.22. SUMMARY SUSPENSION. (a) The commission may summarily suspend, without a hearing, the permit of a permittee who fails to file a return or make a tax payment. 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 of suspension shall be sent by registered or certified mail to the permittee, the permittee's agent, servant, or employee if not given in person.

(c) The commission shall terminate a suspension made under this section when the permittee files all required returns and makes all required tax payments, including payment of penalties that are due.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 42, eff. Jan. 1, 1994. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995.

Sec. 32.23. FOOD AND BEVERAGE CERTIFICATE. (a) In this section, "location" means the designated physical address of the private club registration permit and includes all areas at the

address where the permit holder may serve 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 private club registration permit may be issued a food and beverage certificate by the commission if the commission finds that the receipts from the service 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) Repealed by Acts 2017, 85th Leg., R.S., Ch. 466 (H.B. 2101), Sec. 5, eff. September 1, 2017.

(e) A certificate issued under this section expires on the expiration of the primary private club registration 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 private club registration permit. The holder of a private club registration 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.

(f) Section 11.11 does not apply to the holder of a food and

beverage certificate.

Added by Acts 1995, 74th Leg., ch. 1060, Sec. 7, eff. Aug. 28, 1995.
Amended by Acts 2001, 77th Leg., ch. 853, Sec. 3, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1045, Sec. 3, eff. Sept. 1, 2001.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 466 (H.B. 2101), Sec. 3, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 466 (H.B. 2101), Sec. 5, eff. September 1, 2017.

Sec. 32.24. BREACH OF PEACE. The commission or administrator may suspend or cancel a private club registration permit after giving the holder notice and the opportunity to show compliance with the requirements of law for the retention of the permit if the commission or administrator finds that:

(1) a breach of the peace has occurred on the premises covered by the permit or on a premises under the control of the holder; and

(2) the breach of the peace resulted from the holder's improper supervision of a person who was allowed on the premises covered by the permit or on a premises under the holder's control.

Added by Acts 1997, 75th Leg., ch. 1002, Sec. 1, eff. Sept. 1, 1997.

Text of section effective on September 1, 2021

Sec. 32.25. SALES AT TEMPORARY LOCATION. (a) The holder of a private club registration permit may temporarily serve authorized alcoholic beverages at a picnic, celebration, or similar event:

(1) sponsored by:

(A) a political party or political association supporting a candidate for public office or a proposed amendment to the Texas Constitution or other ballot measure;

(B) a charitable or civic organization;

(C) a fraternal organization with a regular membership that has been in continuous existence for more than five years; or

(D) a religious organization; and

(2) that is located in the county where the private club

registration permit is issued.

(b) The holder of a private club registration permit may temporarily serve alcoholic beverages under this section not more than two times in each calendar year for the same party, association, or organization.

(c) Distilled spirits served under this section must be purchased from the holder of a local distributor's permit.

(d) 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 alcoholic 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 alcoholic beverages under this section;

(3) detail the circumstances when a permit holder may temporarily sell alcoholic 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 alcoholic beverages under this section; and

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

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 128, eff. September 1, 2021.

Text of chapter effective until September 1, 2021

CHAPTER 33. OTHER PRIVATE CLUB PERMITS

Text of subchapter effective until September 1, 2021

SUBCHAPTER A. PRIVATE CLUB LATE HOUR PERMIT

Text of section effective until September 1, 2021

Sec. 33.01. AUTHORIZED ACTIVITIES. The holder of a private club late hours permit may allow persons to consume or be served alcoholic beverages on club premises on Sunday between the hours of 1:00 a. m. and 2 a. m. and on any other day between the hours of 12 midnight and 2 a. m. if the licensed premises are in an area where consumption or service of alcoholic beverages in a public place during those hours is authorized by this code.

Acts 1977, 65th Leg., p. 441, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 33.02. FEE. The annual state fee for a private club late hours permit is $750.

Acts 1977, 65th Leg., p. 441, ch. 184, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 1347, ch. 278, Sec. 24, eff. Sept. 1, 1984.

Text of section effective until September 1, 2021

Sec. 33.03. APPLICATION OF CODE PROVISIONS. All provisions of this code which apply to a private club registration permit also apply to a private club late hours permit.

Acts 1977, 65th Leg., p. 442, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of subchapter effective until September 1, 2021

SUBCHAPTER B. DAILY TEMPORARY PRIVATE CLUB PERMIT

Text of section effective until September 1, 2021

Sec. 33.21. AUTHORIZED ACTIVITIES. The holder of a daily temporary private club permit may serve alcoholic beverages for consumption on the premises for which the permit is issued.

Added by Acts 1989, 71st Leg., ch. 747, Sec. 1, eff. Sept. 1, 1989.

Text of section effective until September 1, 2021

Sec. 33.22. FEE. The state fee for a daily temporary private club permit is $50 a day.

Added by Acts 1989, 71st Leg., ch. 747, Sec. 1, eff. Sept. 1, 1989.

Text of section effective until September 1, 2021

Sec. 33.23. ISSUANCE OF PERMIT. (a) The commission may issue

a daily temporary private club permit only to:

(1) a holder of a private club registration permit for the temporary serving of alcoholic beverages at a picnic, celebration, or similar event sponsored by:

(A) a political party or political association supporting a candidate for public office or a proposed amendment to the Texas Constitution or other ballot measure;

(B) a charitable or civic organization;

(C) a fraternal organization with a regular membership that has been in continuous existence for not less than five years; or

(D) a religious organization; or

(2) a nonprofit corporation for a fund-raising event for the nonprofit corporation that lasts not longer than eight hours.

(b) The commission may not issue more than two daily temporary private club permits under Subsection (a)(1) in each calendar year for events sponsored by the same party, association, or organization. A daily temporary private club permit may only be issued in the county where the private club registration permit is issued under Subsection (a)(1).

(c) A daily temporary private club permit issued under Subsection (a)(2) may only be issued in the county where the nonprofit corporation is located. A nonprofit corporation may be issued only one daily temporary private club permit under Subsection (a)(2) in each calendar year.

Added by Acts 1989, 71st Leg., ch. 747, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 574 (H.B. 3329), Sec. 1, eff. September 1, 2011.

Text of section effective until September 1, 2021

Sec. 33.24. PURCHASE OF DISTILLED SPIRITS. Distilled spirits sold under a daily temporary private club permit must be purchased from the holder of a local distributor's permit.

Added by Acts 1989, 71st Leg., ch. 747, Sec. 1, eff. Sept. 1, 1989.

Text of section effective until September 1, 2021

Sec. 33.25. APPLICATION OF PRIVATE CLUB PERMIT PROVISIONS. (a) A provision of this code that applies to a private club registration permit applies to a daily temporary private club permit issued under Section 33.23(a)(1) unless the provision conflicts with a provision of this chapter.

(b) The commission by rule shall establish the procedure for obtaining and operating under a daily temporary private club permit issued under Section 33.23(a)(2).

Added by Acts 1989, 71st Leg., ch. 747, Sec. 1, eff. Sept. 1, 1989.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 574 (H.B. 3329), Sec. 2, eff. September 1, 2011.

Text of section effective until September 1, 2021

Sec. 33.26. ADOPTION OF RULES. The commission may adopt rules to implement and administer this chapter.

Added by Acts 1989, 71st Leg., ch. 747, Sec. 1, eff. Sept. 1, 1989.

Text of chapter effective until September 1, 2021

CHAPTER 34. AIRLINE BEVERAGE PERMIT

Text of section effective until September 1, 2021

Sec. 34.01. AUTHORIZED ACTIVITIES. The holder of an airline beverage permit may:

(1) sell or serve alcoholic beverages in or from any size container on a commercial passenger airplane operated in compliance with a valid license, permit, or certificate issued under the authority of the United States or of this state, even though the plane, in the course of its flight, may cross an area in which the sale of alcoholic beverages is prohibited; and

(2) store alcoholic beverages in sealed containers of any size at any airport regularly served by the permittee, in accordance with rules and regulations promulgated by the commission.

Acts 1977, 65th Leg., p. 442, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 34.02. FEE. The annual fee for an airline beverage permit is $2,200.

Acts 1977, 65th Leg., p. 442, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 1347, ch. 278, Sec. 25, eff. Sept. 1, 1983.

Text of section effective until September 1, 2021

Sec. 34.03. ELIGIBILITY FOR PERMIT. The commission or administrator may issue an airline beverage permit to any corporation operating a commercial airline in or through the state. Application and payment of the fee shall be made directly to the commission.

Acts 1977, 65th Leg., p. 442, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 34.04. EXEMPTION FROM TAXES. The preparation and service of alcoholic beverages by the holder of an airline beverage permit is exempt from a tax imposed by this code and from the tax imposed by Chapter 151, Tax Code.

Acts 1977, 65th Leg., p. 442, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 10.01, eff. September 28, 2011.

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

Acts 2015, 84th Leg., R.S., Ch. 1255 (H.B. 1905), Sec. 1, eff. September 1, 2015.

Text of section effective until September 1, 2021

Sec. 34.05. SALE OF LIQUOR TO PERMITTEE. (a) Only the holder of a package store permit may sell liquor to the holder of an airline beverage permit. For the purposes of this code, a sale of liquor to a holder of an airline beverage permit shall be considered as a sale at retail to a consumer.

(b) The holder of a package store permit may sell liquor in any size container authorized by Section 101.46 of this code to holders of an airline beverage permit, and may purchase liquor in any size container for resale from the holders of a wholesaler's permit. A holder of a wholesaler's permit may import, sell, offer for sale, or possess for resale to package store permittees to resell to holders of airline beverage permittees liquor in any authorized size containers.

Acts 1977, 65th Leg., p. 442, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 34.06. INAPPLICABLE PROVISION. Section 109.53 of this code does not apply to an airline beverage permit.

Acts 1977, 65th Leg., p. 443, ch. 194, Sec. 1, eff. Sept. 1, 1977.

CHAPTER 35. AGENTS

Sec. 35.01. AUTHORIZED ACTIVITIES. (a) An agent may:

(1) represent permittees other than retailers within this state who are authorized to sell liquor to retail dealers in the state; and

(2) solicit and take orders for the sale of liquor from authorized permittees.

(b) A person acting as an agent may only represent one permitted or licensed business at a time while soliciting or taking orders.

Acts 1977, 65th Leg., p. 443, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 130, eff. September 1, 2019.

Sec. 35.05. SAMPLES. An agent may not transport or carry liquor as samples, but may carry or display empty sample containers.

Acts 1977, 65th Leg., p. 443, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 131, eff. September 1, 2019.

Sec. 35.06. INELIGIBILITY TO SERVE AS NONRESIDENT SELLER'S AGENT. A person acting as an agent under this chapter may not act as a nonresident seller's agent under Chapter 36.

Acts 1977, 65th Leg., p. 443, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 132, eff. September 1, 2019.

Sec. 35.07. UNAUTHORIZED REPRESENTATION. An agent in soliciting or taking orders for the sale of liquor may not represent that the agent is an agent of any person other than the person who employs the agent or who has authorized the agent to represent the person.

Acts 1977, 65th Leg., p. 444, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 133, eff. September 1, 2019.

CHAPTER 36. NONRESIDENT SELLER'S AGENTS

Sec. 36.01. AUTHORIZED ACTIVITIES. (a) A nonresident seller's agent may:

(1) represent only the holders of nonresident seller's permits;

(2) solicit and take orders for the sale of liquor from permittees authorized to import liquor for the purpose of resale; and

(3) if the agent represents the holder of a nonresident seller's permit, provide samples or tastings of distilled spirits on a retailer's premises as authorized by Section 37.01(d).

(b) A person acting as a nonresident seller's agent may only represent one permitted or licensed business at a time while soliciting or taking orders.

Acts 1977, 65th Leg., p. 444, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:
Acts 2019, 86th Leg., R.S., Ch. 792 (H.B. 1997), Sec. 8, eff. September 1, 2019.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 135, eff. September 1, 2019.

Sec. 36.04. INELIGIBILITY TO SERVE AS AN AGENT. A person acting as a nonresident seller's agent may not act as an agent under Chapter 35.

Acts 1977, 65th Leg., p. 444, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 136, eff. September 1, 2019.

Sec. 36.05. SAMPLES. A nonresident seller's agent may not transport or carry liquor as samples, but may carry or display empty sample containers.

Acts 1977, 65th Leg., p. 444, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 137, eff. September 1, 2019.

Sec. 36.06. SOLICITATION FROM HOLDER OF MIXED BEVERAGE OR PRIVATE CLUB PERMIT. A nonresident seller's agent may not solicit business directly or indirectly from a holder of a mixed beverage permit or a private club registration permit unless the agent is accompanied by the holder of a wholesaler's permit or the wholesaler's agent.

Acts 1977, 65th Leg., p. 444, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 138, eff. September 1, 2019.

Sec. 36.07. UNAUTHORIZED REPRESENTATION. A nonresident

seller's agent in soliciting or taking orders for the sale of liquor may not represent that the agent is an agent of a person other than the person who employs the agent or who has authorized the agent to represent the person.

Acts 1977, 65th Leg., p. 444, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 139, eff. September 1, 2019.

Sec. 36.08. RESTRICTION AS TO SOURCE OF SUPPLY. A nonresident seller's agent may not represent a person with respect to an alcoholic beverage unless the person represented is the primary American source of supply of the beverage as defined in Section 37.10.

Acts 1977, 65th Leg., p. 445, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 140, eff. September 1, 2019.

CHAPTER 37. NONRESIDENT SELLER'S PERMIT

Sec. 37.01. AUTHORIZED ACTIVITIES. (a) The holder of a nonresident seller's permit may:

(1) solicit and take orders for liquor from permittees authorized to import liquor into this state; and

(2) ship liquor into this state, or cause it to be shipped into this state, in consummation of sales made to permittees authorized to import liquor into the state.

Text of subsection effective until September 1, 2021

(b) The holder of a nonresident seller's permit who owns a winery or brewery outside of the state may conduct samplings of the kinds of alcoholic beverages the permit holder is authorized to produce, including tastings, at a retailer's premises. An employee of the winery or brewery may open, touch, or pour the alcoholic beverages, make a presentation, or answer questions at a sampling event.

Text of subsection effective on September 1, 2021

(b) The holder of a nonresident seller's permit who owns a winery outside of the state may conduct samplings of the kinds of alcoholic beverages the permit holder is authorized to produce, including tastings, at a retailer's premises. An employee of the winery may open, touch, or pour the alcoholic beverages, make a presentation, or answer questions at a sampling event.

(c) Any alcoholic beverages used in a sampling event under Subsection (b) must be purchased from the retailer on whose premises the sampling event is held. Subsection (b) does not authorize the holder of a nonresident seller's permit or the permit holder's agent to withdraw or purchase alcoholic beverages from the holder of a wholesaler's permit or provide alcoholic beverages for a sampling event on a retailer's premises that is not purchased from the retailer. The amount of alcoholic beverages purchased from the retailer may not exceed the amount of alcoholic beverages used in the sampling event.

(d) The holder of a nonresident seller's permit or an agent or employee of the permit holder may provide samples or tastings of the kinds of distilled spirits the permit holder is authorized to produce in the manner authorized by Section 14.07 for the holder of a distiller's and rectifier's permit or the agent or employee of the holder of a distiller's and rectifier's permit. Distilled spirits may legally be transported by the holder of a nonresident seller's permit or the permit holder's agent or employee to a retailer's premises for the purpose of providing a sample or a tasting under this subsection. The cost of the distilled spirits provided for a sampling or tasting under this subsection is the responsibility of the holder of the nonresident seller's permit providing the sampling or tasting.

Acts 1977, 65th Leg., p. 445, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2005, 79th Leg., Ch. 192 (H.B. 937), Sec. 4, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1073 (H.B. 2723), Sec. 7, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 792 (H.B. 1997), Sec. 9, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 141, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 142, eff. September 1, 2019.

Text of section effective until September 1, 2021

Sec. 37.02. FEE. The annual state fee for a nonresident seller's permit is $150.

Acts 1977, 65th Leg., p. 445, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1348, ch. 278, Sec. 28, eff. Sept. 1, 1983.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(12), eff. September 1, 2021.

Sec. 37.03. PERMIT REQUIRED. A nonresident seller's permit is required of any distillery, winery, importer, broker, or person who sells liquor to permittees authorized to import liquor into this state, regardless of whether the sale is consummated inside or outside the state.

Acts 1977, 65th Leg., p. 445, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 37.04. INTEREST IN BREWER'S PERMIT. A person who holds a nonresident seller's permit may have an interest in the business, assets, corporate stock, or permit of a person who holds a brewer's permit.

Acts 1977, 65th Leg., p. 445, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(a)(12), eff. September 1, 2021.

Sec. 37.05. APPOINTMENT OF AGENT FOR SERVICE OF NOTICE. (a) No person may be issued a nonresident seller's permit until he shows that he has filed a certificate with the secretary of state

certifying that he has appointed a resident of this state as his agent for the purposes of this section. The certificate shall contain the name, street address, and business of the agent.

(b) A notice of a hearing for the refusal, cancellation, or suspension of a permit may be served on any of the following:

(1) the agent designated in the certificate on file with the secretary of state;

(2) any person authorized to sell liquor in this state as agent of the permittee; or

(3) the permittee or, if the permittee is a corporation, any officer of the corporation.

(c) If a permittee fails to maintain a designated agent, notice of a hearing may be served on the secretary of state. In that case, the secretary of state shall forward the notice to the permittee by registered mail, return receipt requested, and the receipt shall be prima facie evidence of service on the permittee.

(d) Provisions of this code generally applicable to hearings for the refusal, cancellation, or suspension of a permit also to apply to proceedings relating to the refusal, cancellation, or suspension of a nonresident seller's permit.

Acts 1977, 65th Leg., p. 445, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 37.06. DESIGNATION OF AGENTS. Every holder of a nonresident seller's permit shall designate, in the manner required by the commission and on forms prescribed by it, those persons authorized as agents to represent the permittee in this state. The failure to do so is a violation of this code.

Acts 1977, 65th Leg., p. 446, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 37.07. PROHIBITED ACTIVITIES. No holder of a nonresident seller's permit, nor any officer, director, agent, or employee of the holder, nor any affiliate of the holder, regardless of whether the affiliation is corporate or by management, direction, or control, may do any of the following:

(1) hold or have an interest in the permit, business, assets, or corporate stock of a person authorized to import liquor into this state for the purpose of resale unless the interest was

acquired on or before January 1, 1941, or unless the permittee is a Texas corporation holding a manufacturer's license and a brewer's permit issued before April 1, 1971;

(2) fail to make or file a report with the commission as required by a rule of the commission;

(3) sell liquor for resale inside this state that fails to meet the standards of quality, purity, and identity prescribed by the commission;

(4) advertise any liquor contrary to the laws of this state or to the rules of the commission, or sell liquor for resale in this state in violation of advertising or labeling rules of the commission;

(5) sell liquor for resale inside this state or cause it to be brought into the state in a size of container prohibited by this code or by rule of the commission;

(6) solicit or take orders for liquor from a person not authorized to import liquor into this state for the purpose of resale;

(7) induce, persuade, or influence, or attempt to induce, persuade, or influence, a person to violate this code or a rule of the commission, or conspire with a person to violate this code or a rule of the commission; or

(8) exercise a privilege granted by a nonresident seller's permit while an order or suspension against the permit is in effect.

Acts 1977, 65th Leg., p. 446, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 37.08. CANCELLATION OR SUSPENSION: NOTICE TO IMPORTERS. When a nonresident seller's permit is cancelled or suspended, the commission shall immediately notify in writing all permittees authorized to import liquor into the state.

Acts 1977, 65th Leg., p. 447, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 37.09. RESTRICTION ON IMPORTATION. No person who holds a permit authorizing the importation of liquor, nor his agent or employee, may purchase or order liquor for importation from any person other than a nonresident seller's permittee. An importer may not purchase or order liquor from a nonresident seller's permittee

whose permit is under suspension after the importer has received notice of the suspension.

Acts 1977, 65th Leg., p. 447, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 37.10. RESTRICTION AS TO SOURCE OF SUPPLY. (a) No holder of a nonresident seller's permit may solicit, accept, or fill an order for distilled spirits or wine from a holder of any type of wholesaler's or winery permit unless the nonresident seller is the primary American source of supply for the brand of distilled spirits or wine that is ordered.

(b) In this section, "primary American source of supply" means the distiller, the producer, the owner of the commodity at the time it becomes a marketable product, the bottler, or the exclusive agent of any of those. To be the "primary American source of supply" the nonresident seller must be the first source, that is, the manufacturer or the source closest to the manufacturer, in the channel of commerce from whom the product can be secured by Texas wholesalers and Texas wineries. Except as provided by Subsection (c), a product may have only one primary American source of supply to Texas.

(c) A product may have more than one primary American source of supply to Texas if the product is a wine that is bottled or produced outside of the United States.

Acts 1977, 65th Leg., p. 447, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

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

Sec. 37.12. INSPECTION OF RECORDS, DOCUMENTS, ETC. (a) In this section, "officer" means a representative of the commission, the attorney general, or an assistant or representative of the attorney general.

(b) If an officer wishes to examine the books, accounts, records, minutes, letters, memoranda, documents, checks, telegrams, constitution and bylaws, or other records of a nonresident seller's permittee, he shall make a written request to the permittee or his duly authorized manager or representative or, if the permittee is a

corporation, to any officer of the corporation. An officer may examine the records as often as he considers necessary.

(c) When a request for an examination is made, the person to whom it is directed shall immediately allow the officer to conduct the examination, and the person shall answer under oath any question asked by the officer relating to the records.

(d) The officer may investigate the organization, conduct, and management of any nonresident seller's permittee and may make copies of any records which in the officer's judgment may show or tend to show that the permittee has violated state law or the terms of his permit.

(e) An officer may not make public any information obtained under this section except to a law enforcement officer of this state or in connection with an administrative or judicial proceeding in which the state or commission is a party concerning the cancellation or suspension of a nonresident seller's permit, the collection of taxes due under state law, or the violation of state law.

(f) The commission shall cancel or suspend a nonresident seller's permit in accordance with this code if a permittee or his authorized representative fails or refuses to permit an examination authorized by this section or to permit the making of copies of any document as provided by this section, without regard to whether the document is inside or outside the state, or if the permittee or his authorized representative fails or refuses to answer a question of an officer incident to an examination or investigation in progress.

Acts 1977, 65th Leg., p. 448, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 37.13. SOLICITATION FROM HOLDER OF MIXED BEVERAGE OR PRIVATE CLUB PERMIT. A holder of a nonresident seller's permit may not solicit business directly or indirectly from a holder of a mixed beverage permit or a private club registration permit unless he is accompanied by the holder of a wholesaler's permit or the wholesaler's agent.

Acts 1977, 65th Leg., p. 448, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 37.14. MONTHLY REPORTS. The commission shall promulgate rules requiring holders of nonresident seller's permits to file

monthly reports of liquor sold to persons within this state. The reports shall be supported by copies of invoices. The commission shall prescribe and furnish forms for this purpose.

Acts 1977, 65th Leg., p. 448, ch. 194, Sec. 1, eff. Sept. 1, 1977.

CHAPTER 38. INDUSTRIAL USE OF ALCOHOL

Sec. 38.01. AUTHORIZED ACTIVITIES. (a) In this section, "industrial alcohol" means an alcohol that is produced for industrial purposes only and is not fit for human consumption.

(b) A person may:

(1) manufacture, rectify, refine, transport, and store industrial alcohol;

(2) denature industrial alcohol;

(3) sell denatured or industrial alcohol to qualified persons inside or outside the state; and

(4) blend industrial alcohol with petroleum distillates and sell or use the resulting product as a motor fuel.

(c) A person may import, transport, and use alcohol or denatured alcohol for the manufacture and sale of any of the following products:

(1) denatured alcohol;

(2) patent, proprietary, medicinal, pharmaceutical, antiseptic, and toilet preparations;

(3) flavoring extracts, syrups, condiments, and food products; and

(4) scientific, chemical, mechanical, and industrial products, or products used for scientific, chemical, mechanical, industrial, or medicinal purposes.

Acts 1977, 65th Leg., p. 449, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 144, eff. September 1, 2019.

Text of section effective until September 1, 2021

Sec. 38.04. FEE. The annual state fee for an industrial permit is $60.

Acts 1977, 65th Leg., p. 449, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1348, ch. 278, Sec. 29, eff. Sept. 1, 1983.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(13), eff. September 1, 2021.

Sec. 38.05. OTHER CODE PROVISIONS INAPPLICABLE. The provisions of this code do not apply to alcohol intended for industrial, medicinal, mechanical, or scientific purposes.

Acts 1977, 65th Leg., p. 449, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 145, eff. September 1, 2019.

Sec. 38.06. ACTIVITIES TAX FREE. The taxes imposed by this code do not apply to activities authorized in Section 38.01.

Acts 1977, 65th Leg., p. 449, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 146, eff. September 1, 2019.

CHAPTER 41. CARRIER PERMIT

Sec. 41.01. AUTHORIZED ACTIVITIES. (a) The holder of a carrier permit may transport liquor into and out of this state and between points within the state.

(b) The holder may transport liquor from one wet area to another wet area across a dry area if that course of transportation is necessary or convenient.

(c) The holder of a carrier permit who transports liquor to the premises of a wholesaler, including to a location from which the wholesaler is temporarily conducting business under Section 109.62, shall provide to the consignee a shipping invoice that clearly states:

(1) the name and address of the consignor and consignee;

(2) the origin and destination of the shipment; and

(3) any other information required by this code or commission rule, including the brands, sizes of containers, types, and quantities of liquor contained in the shipment.

Acts 1977, 65th Leg., p. 455, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 517 (H.B. 2035), Sec. 1, eff. June 17, 2011.

Text of section effective until September 1, 2021

Sec. 41.02. FEE. The annual state fee for a carrier permit is $30.

Acts 1977, 65th Leg., p. 455, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1348, ch. 278, Sec. 30, eff. Sept. 1, 1983.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(14), eff. September 1, 2021.

Sec. 41.03. ELIGIBILITY FOR PERMIT. A carrier permit may be issued to:

(1) a water carrier;

(2) an airline;

(3) a railway;

(4) a motor carrier registered under Chapter 643, Transportation Code; or

(5) a common carrier operating under a certificate issued by the Interstate Commerce Commission.

Acts 1977, 65th Leg., p. 455, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1995, 74th Leg., ch. 705, Sec. 5, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 30.173, eff. Sept. 1, 1997.

Sec. 41.04. REQUIRED INFORMATION. The holder of a carrier permit shall furnish information required by the commission concerning the transportation of liquor.

Acts 1977, 65th Leg., p. 455, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 41.05. TRANSPORTATION OF WINE OUT OF STATE. At the request of a holder of a winery permit, a common carrier that does not hold a carrier permit may transport wine from the premises of the holder of the winery permit or from another location where the holder of a winery permit may legally store wine to a destination out of this state, if the common carrier may otherwise legally transport wine and the holder of the winery permit furnishes to the commission any documentation required by the commission concerning the transportation and the receipt of the wine at the destination out of this state.

Added by Acts 1989, 71st Leg., ch. 1017, Sec. 1, eff. June 15, 1989.

Text of chapter effective until September 1, 2021

CHAPTER 42. PRIVATE CARRIER PERMIT

Text of section effective until September 1, 2021

Sec. 42.01. AUTHORIZED ACTIVITIES. (a) The holder of a private carrier permit who is also a holder of a brewer's, distiller's and rectifier's, winery, wholesaler's, class B wholesaler's, or wine bottler's permit may transport liquor from the place of purchase to the holder's place of business and from the place of sale or distribution to the purchaser in a vehicle owned or leased in good faith by the holder or in a vehicle owned or leased by the holder of a permit issued under Chapter 35 if the transportation is for a lawful purpose.

(b) The holder of a private carrier permit may transport liquor from one wet area to another wet area across a dry area if that course of transportation is necessary or convenient.

Acts 1977, 65th Leg., p. 456, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2118, ch. 819, Sec. 8, eff. June 13, 1979; Acts 1983, 68th Leg., p. 1348, ch. 278, Sec. 31, eff. Sept. 1, 1983; Acts 1999, 76th Leg., ch. 501, Sec. 1, eff. Sept. 1, 1999.

Text of section effective until September 1, 2021

Sec. 42.02. FEE. The annual state fee for a private carrier permit is $30.

Acts 1977, 65th Leg., p. 456, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 1348, ch. 278, Sec. 32, eff. Sept. 1, 1983.

Text of section effective until September 1, 2021

Sec. 42.03. APPLICATION OF MOTOR CARRIER LAWS. A person desiring to transport liquor for hire shall comply with the provisions of the motor carrier laws when engaging in the business of transporting liquor for hire.

Acts 1977, 65th Leg., p. 456, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1995, 74th Leg., ch. 705, Sec. 6, eff. Sept. 1, 1995.

Text of section effective until September 1, 2021

Sec. 42.04. VEHICLES USED FOR TRANSPORTING LIQUOR. (a) Each application for a private carrier permit must contain a full description of the motor vehicles used by the applicant for transporting liquor as well as all other information required by the commission.

(b) Each vehicle used for the transportation of liquor within the state shall have printed or painted on it the designation required by the commission.

(c) A permittee may not transport liquor in any vehicle which is not fully described in his application for a permit.

(d) A holder of a winery permit is exempt from the requirements of this section for the transportation of its wine.

Acts 1977, 65th Leg., p. 456, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 43, eff. Sept. 1, 1993.

Text of section effective until September 1, 2021

Sec. 42.05. TRANSPORTATION OF ALE AND MALT LIQUOR: RULES. The

commission may issue rules prescribing the manner in which ale and malt liquor may be transported in the state by private carrier's permittees who also hold class B wholesaler's permits.

Acts 1977, 65th Leg., p. 456, ch. 194, Sec. 1, eff. Sept. 1, 1977.

CHAPTER 43. LOCAL CARTAGE PERMIT

Text of section as amended by Acts 2019, 86th Leg., R.S., Ch. 434 (S.B. 1232), Sec. 2

For text of section as amended by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 147, see other Sec. 43.01.

Sec. 43.01. AUTHORIZED ACTIVITIES. (a) A warehouse or transfer company that holds a local cartage permit may transport liquor for hire inside the corporate limits of any city or town in the state.

(b) A package store, wine only package store, or local distributor's permittee who also holds a local cartage permit may transfer alcoholic beverages in accordance with Sections 22.08, 23.04, and 24.04 of this code.

(c) A package store, wine only package store, or wine and beer retailer's permittee who also holds a local cartage permit may make deliveries to and collections from customers in accordance with Section 22.03, 24.03, or 25.15, as appropriate.

Acts 1977, 65th Leg., p. 457, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 434 (S.B. 1232), Sec. 2, eff. September 1, 2019.

Text of section as amended by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 147

For text of section as amended by Acts 2019, 86th Leg., R.S., Ch. 434 (S.B. 1232), Sec. 2, see other Sec. 43.01.

Text of section effective on September 1, 2021

Sec. 43.01. AUTHORIZED ACTIVITIES. A warehouse or transfer company that holds a local cartage permit may transport liquor for hire inside the corporate limits of any city or town in the state.

Acts 1977, 65th Leg., p. 457, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 147, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 43.02. FEE. The annual state fee for a local cartage permit is $30.

Acts 1977, 65th Leg., p. 457, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1349, ch. 278, Sec. 33, eff. Sept. 1, 1983.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(15), eff. September 1, 2021.

Sec. 43.03. PERMIT REQUIRED. No person may transport liquor for hire inside a city or town unless he holds a local cartage permit. No person may transport liquor in violation of the motor carrier laws of this state.

Acts 1977, 65th Leg., p. 457, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section as amended by Acts 2019, 86th Leg., R.S., Ch. 434 (S.B. 1232), Sec. 3

For text of section as amended by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 148, see other Sec. 43.04.

Sec. 43.04. ELIGIBILITY FOR PERMIT. The commission may issue a local cartage permit to a warehouse or transfer company or to a holder of a package store, wine only package store, wine and beer retailer's, or local distributor's permit.

Acts 1977, 65th Leg., p. 457, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 434 (S.B. 1232), Sec. 3, eff. September 1, 2019.

Text of section as amended by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 148

For text of section as amended by Acts 2019, 86th Leg., R.S., Ch. 434 (S.B. 1232), Sec. 3, see other Sec. 43.04.

Text of section effective on September 1, 2021

Sec. 43.04. ELIGIBILITY FOR PERMIT. The commission may issue a local cartage permit to a warehouse or transfer company.

Acts 1977, 65th Leg., p. 457, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 148, eff. September 1, 2021.

Sec. 43.05. VEHICLES USED BY PERMITTEE. (a) No local cartage permittee may transport liquor unless:

(1) a description of each vehicle used in the transportation, as required by the commission, has been submitted to the commission; and

(2) each vehicle has been plainly marked or lettered to indicate that it is being used for the transportation of liquor by a local cartage permittee.

(b) The transportation of liquor by a permittee in a vehicle not described and marked in accordance with this section is a violation of this code and is a ground for the cancellation of the permit.

Acts 1977, 65th Leg., p. 457, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 43.06. CERTAIN TRANSPORTATION PROHIBITED. No holder of a local cartage permit may for hire transport liquor between incorporated cities or towns in this state.

Acts 1977, 65th Leg., p. 457, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 43.07. VIOLATION OF CODE, RULE. If a holder of a local cartage permit who also holds a package store permit or wine only

package store permit violates any provision of this code or any rule or regulation of the commission, the violation is a ground for the suspension or cancellation of any or all permits or licenses held by that person for the premises where the offense was committed.

Acts 1977, 65th Leg., p. 457, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(a)(13), eff. September 1, 2021.

Text of chapter effective until September 1, 2021

CHAPTER 44. BEVERAGE CARTAGE PERMIT

Text of section effective until September 1, 2021

Sec. 44.01. AUTHORIZED ACTIVITIES. A beverage cartage permit authorizes the holder of a mixed beverage or private club registration permit to transfer alcoholic beverages from the place of purchase to the licensed premises as provided in this code.

Acts 1977, 65th Leg., p. 458, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 44.02. FEE. The annual state fee for a beverage cartage permit is $20.

Acts 1977, 65th Leg., p. 458, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1349, ch. 278, Sec. 34, eff. Sept. 1, 1983.

Text of section effective until September 1, 2021

Sec. 44.03. ELIGIBILITY FOR PERMIT. The commission may issue a beverage cartage permit to the holder of a mixed beverage or private club registration permit.

Acts 1977, 65th Leg., p. 458, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of chapter effective until September 1, 2021

CHAPTER 45. STORAGE PERMIT

Text of section effective until September 1, 2021

Sec. 45.01. AUTHORIZED ACTIVITIES. The holder of a storage permit may store liquor in a public bonded warehouse for which a permit has been issued or in a private warehouse owned or leased by the holder and operated by the holder.

Acts 1977, 65th Leg., p. 458, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. 1090), Sec. 12, eff. September 1, 2013.

Text of section effective until September 1, 2021

Sec. 45.02. FEE. The annual state fee for a storage permit is $100.

Acts 1977, 65th Leg., p. 458, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 1349, ch. 278, Sec. 35, eff. Sept. 1, 1983.

Text of section effective until September 1, 2021

Sec. 45.03. ELIGIBILITY FOR PERMIT; RESTRICTIONS; EXCEPTIONS. (a) A storage permit may be issued to a holder of a brewer's, distiller's and rectifier's, winery, wholesaler's, class B wholesaler's, or wine bottler's permit.

(b) A permit must be obtained for each place of storage.

(c) Except as provided by this subsection, a storage permit may not be issued for a location outside the county in which the permittee's business is located. Subject to Section 45.04, the holder of a winery permit may obtain a storage permit for a location inside or outside the county in which the permit holder's business is located.

(d) Except as provided by Section 45.04 of this code, no storage permit may be issued for a location in a dry area.

(e) A permit is not required for the storage of stock in trade on the licensed premises.

Acts 1977, 65th Leg., p. 458, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1349, ch. 278, Sec. 36, eff. Sept. 1, 1983; Acts 1993, 73rd Leg., ch. 934, Sec. 44, eff. Sept. 1, 1993.
Amended by:
Acts 2005, 79th Leg., Ch. 416 (S.B. 1692), Sec. 1, eff. September 1, 2005.
Acts 2005, 79th Leg., Ch. 878 (S.B. 1137), Sec. 5, eff. June 17, 2005.

Text of section effective until September 1, 2021

Sec. 45.04. WINERY STORAGE PERMIT. A holder of a winery permit whose winery is located in a county all or part of which is in a dry area may obtain a storage permit to store the winery's product in a dry area of that county if:

(1) the holder of the winery permit obtains a permit for each place of storage; and

(2) the product to be stored is owned by the holder of the winery permit and remains in the possession of the holder.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 45, eff. Sept. 1, 1993.

CHAPTER 46. BONDED WAREHOUSE PERMIT

Sec. 46.01. AUTHORIZED ACTIVITIES. The holder of a bonded warehouse permit may store liquor for any permittee who holds a permit authorizing its storage in a public bonded warehouse.

Acts 1977, 65th Leg., p. 459, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 46.02. FEE. The annual state fee for a bonded warehouse permit is $150.

Acts 1977, 65th Leg., p. 459, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1349, ch. 278, Sec. 37, eff. Sept. 1, 1983.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(16), eff. September 1, 2021.

Sec. 46.03. QUALIFICATIONS FOR PERMIT. (a) A bonded warehouse permit may be issued to any public bonded warehouse that:

(1) derives at least 50 percent of its gross revenue in a bona fide manner during each three-month period from the storage of goods or merchandise other than liquor; and

(2) is not located in a dry area.

(b) A bonded warehouse permit may be issued to a public bonded warehouse described by Subsection (a)(1) of this section that is located in a dry area only for the storage of the wine of the holder of a winery permit who holds a permit authorizing its storage in a public bonded warehouse.

Acts 1977, 65th Leg., p. 459, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 46, eff. Sept. 1, 1993.

Sec. 46.04. STORAGE INFORMATION. The holder of a bonded warehouse permit shall furnish such information concerning the liquor stored and withdrawn as may be required by the commission.

Acts 1977, 65th Leg., p. 459, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of chapter effective until September 1, 2021

Text of chapter effective until September 1, 2021

CHAPTER 48. PASSENGER TRAIN BEVERAGE PERMIT

Text of section as amended by Acts 2019, 86th Leg., R.S., Ch 230 (H.B. 2196), Sec. 1

For text of section as amended by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 149, see other Sec. 48.01.

Text of section effective until September 1, 2021

Sec. 48.01. AUTHORIZED ACTIVITIES. (a) The holder of a passenger train beverage permit has the same rights with respect to the sale of alcoholic beverages on a passenger train to which this

chapter applies as the holder of an airline beverage permit has with respect to the sale of alcoholic beverages on a commercial passenger airplane under Section 34.01.

(b) This subsection applies only to a passenger train operated by or on behalf of the Texas State Railroad Authority. An alcoholic beverage purchased by a consumer on a passenger train for present consumption may be removed from the train for consumption on property that is part of a public entertainment facility owned or leased by the Texas State Railroad Authority. An alcoholic beverage in an open container purchased by a consumer on property that is part of a public entertainment facility owned or leased by the Texas State Railroad Authority may be consumed on a passenger train.

Added by Acts 1985, 69th Leg., ch. 540, Sec. 2, eff. June 12, 1985.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 230 (H.B. 2196), Sec. 1, eff. September 1, 2019.

Text of section effective until September 1, 2021

Sec. 48.02. FEE. The annual fee for a passenger train beverage permit is $500.

Added by Acts 1985, 69th Leg., ch. 540, Sec. 2, eff. June 12, 1985.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 149, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 48.03. ELIGIBILITY FOR PERMIT. The commission or administrator may issue a passenger train beverage permit to any corporation organized under the Business Organizations Code or former Title 112, Revised Statutes, or under the Rail Passenger Service Act of 1970, as amended (45 U.S.C.A. Section 501 et seq.), operating a commercial passenger train service in or through the state. Application and payment of the fee shall be made directly to the commission.

Added by Acts 1985, 69th Leg., ch. 540, Sec. 2, eff. June 12, 1985.

Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 1, Sec. 1, eff. Sept. 24, 1986; Acts 1989, 71st Leg., ch. 1104, Sec. 3, eff. June 16, 1989; Acts 1997, 75th Leg., ch. 165, Sec. 30.171, eff. Sept. 1, 1997.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 3.001, eff. September 1, 2011.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 149, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 48.04. EXEMPTION FROM TAXES. The preparation and service of alcoholic beverages by the holder of a passenger train beverage permit is exempt from a tax imposed by this chapter and from the tax imposed by Chapter 151, Tax Code.

Added by Acts 1985, 69th Leg., ch. 540, Sec. 2, eff. June 12, 1985.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 10.02, eff. September 28, 2011.
Acts 2013, 83rd Leg., R.S., Ch. 431 (S.B. 559), Sec. 1(2), eff. June 14, 2013.
Acts 2015, 84th Leg., R.S., Ch. 1255 (H.B. 1905), Sec. 2, eff. September 1, 2015.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 149, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 48.05. INAPPLICABLE PROVISION. Section 109.53 of this code does not apply to a passenger train beverage permit.

Added by Acts 1985, 69th Leg., ch. 540, Sec. 2, eff. June 12, 1985.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 149, eff. September 1, 2021.

Text of chapter effective on September 1, 2021

Text of chapter effective on September 1, 2021

CHAPTER 48. PASSENGER TRANSPORTATION PERMIT

Text of section as amended by Acts 2019, 86th Leg., R.S., Ch 230 (H.B. 2196), Sec. 1

For text of section as amended by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 149, see other Sec. 48.01.

Sec. 48.01. AUTHORIZED ACTIVITIES. (a) The holder of a passenger train beverage permit has the same rights with respect to the sale of alcoholic beverages on a passenger train to which this chapter applies as the holder of an airline beverage permit has with respect to the sale of alcoholic beverages on a commercial passenger airplane under Section 34.01.

(b) This subsection applies only to a passenger train operated by or on behalf of the Texas State Railroad Authority. An alcoholic beverage purchased by a consumer on a passenger train for present consumption may be removed from the train for consumption on property that is part of a public entertainment facility owned or leased by the Texas State Railroad Authority. An alcoholic beverage in an open container purchased by a consumer on property that is part of a public entertainment facility owned or leased by the Texas State Railroad Authority may be consumed on a passenger train.

Added by Acts 1985, 69th Leg., ch. 540, Sec. 2, eff. June 12, 1985.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 230 (H.B. 2196), Sec. 1, eff. September 1, 2019.

Text of section as amended by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 149

For text of section as amended by Acts 2019, 86th Leg., R.S., Ch 230 (H.B. 2196), Sec. 1, see other Sec. 48.01.

Text of section effective on September 1, 2021

Sec. 48.01. AUTHORIZED ACTIVITIES. A passenger transportation permit authorizes the permit holder to sell or serve the types of alcoholic beverages specifically authorized by this chapter.

Added by Acts 1985, 69th Leg., ch. 540, Sec. 2, eff. June 12, 1985.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 149, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 48.02. PERMIT FOR EXCURSION BOAT. (a) A passenger transportation permit may be issued for:

(1) a regularly scheduled excursion boat which is licensed by the United States Coast Guard to carry passengers on the navigable waters of the state if the boat:

(A) carries at least 45 passengers;

(B) weighs at least 35 gross tons; and

(C) is at least 55 feet long; or

(2) a boat that:

(A) carries at least 350 passengers;

(B) weighs at least 90 gross tons; and

(C) is at least 80 feet long.

(b) The holder of a passenger transportation permit issued under Subsection (a)(1) may sell the same alcoholic beverages as the holder of a mixed beverage permit if:

(1) the home port of the boat is in an area where the sale of mixed beverages is legal or the boat is regularly used for voyages in international waters as provided by Subsection (h); and

(2) the owner or operator of the boat is the sole permit holder for the boat.

(c) The holder of a passenger transportation permit issued under Subsection (a)(1) may sell the same alcoholic beverages as the holder of a wine and malt beverage retailer's permit if the home port of the boat is in an area where the sale of malt beverages and wine is legal.

(d) The holder of a passenger transportation permit issued under Subsection (a)(2) may sell the same alcoholic beverages as the holder of a mixed beverage permit if:

(1) the home port of the boat is in an area where the sale of mixed beverages is legal; or

(2) the boat is regularly used for voyages in international waters as provided by Subsection (h).

(e) A passenger transportation permit issued under this section is inoperative in a dry area.

(f) For purposes of Section 11.38, the home port of the boat is

treated as the location of the permitted premises.

(g) The provisions of Section 109.53 that relate to residency requirements and compliance with Texas laws of incorporation do not apply to the holder of a passenger transportation permit under this section.

(h) A passenger transportation permit may be issued under this section to a boat regularly used for voyages in international waters regardless of whether the sale of mixed beverages is lawful in the area of the home port. A person having authority to deliver alcoholic beverages to a passenger transportation permit holder in the county where the permitted premises is located may deliver alcoholic beverages purchased by the permit holder.

Added by Acts 1985, 69th Leg., ch. 540, Sec. 2, eff. June 12, 1985.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 149, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 48.03. PERMIT FOR AIRLINE. (a) A passenger transportation permit may be issued to any corporation operating a commercial airline in or through the state.

(b) The holder of a passenger transportation permit issued under this section may:

(1) sell or serve alcoholic beverages in or from any size container on a commercial passenger airplane operated in compliance with a valid license, permit, or certificate issued under the authority of the United States or of this state, even though the plane, in the course of its flight, may cross an area in which the sale of alcoholic beverages is prohibited; and

(2) store alcoholic beverages in sealed containers of any size at any airport regularly served by the permittee, in accordance with rules and regulations promulgated by the commission.

(c) Only the holder of a package store permit may sell liquor to the holder of a passenger transportation permit issued under this section. For the purposes of this code, a sale of liquor to a holder of a passenger transportation permit shall be considered as a sale at retail to a consumer.

(d) The holder of a package store permit may sell liquor in any

size container authorized by Section 101.46 to holders of a passenger transportation permit issued under this section, and may purchase liquor in any size container for resale from the holders of a wholesaler's permit. A holder of a wholesaler's permit may import, sell, offer for sale, or possess for resale to package store permittees to resell to holders of a passenger transportation permit liquor in any authorized size containers.

(e) The preparation and service of alcoholic beverages by the holder of a passenger transportation permit issued under this section is exempt from a tax imposed by this code and from the tax imposed by Chapter 151, Tax Code.

(f) Section 109.53 does not apply to a passenger transportation permit issued under this section.

Added by Acts 1985, 69th Leg., ch. 540, Sec. 2, eff. June 12, 1985. Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 1, Sec. 1, eff. Sept. 24, 1986; Acts 1989, 71st Leg., ch. 1104, Sec. 3, eff. June 16, 1989; Acts 1997, 75th Leg., ch. 165, Sec. 30.171, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 3.001, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 149, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 48.04. PERMIT FOR PASSENGER TRAIN. (a) A passenger transportation permit may be issued to any corporation organized under the Business Organizations Code or former Title 112, Revised Statutes, or under the Rail Passenger Service Act of 1970, as amended (45 U.S.C.A. Section 501 et seq.), operating a commercial passenger train service in or through the state.

(b) The holder of a passenger transportation permit issued under this section may sell or serve alcoholic beverages in or from any size container on a passenger train even though the train, in the course of its travel, may cross an area in which the sale of alcoholic beverages is prohibited.

(c) The preparation and service of alcoholic beverages by the holder of a passenger transportation permit issued under this section

is exempt from a tax imposed by this code and from the tax imposed by Chapter 151, Tax Code.

(d) Section 109.53 does not apply to a passenger transportation permit issued under this section.

Added by Acts 1985, 69th Leg., ch. 540, Sec. 2, eff. June 12, 1985.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 10.02, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 431 (S.B. 559), Sec. 1(2), eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1255 (H.B. 1905), Sec. 2, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 149, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 48.05. PERMIT FOR PASSENGER BUS. (a) A passenger transportation permit may be issued to any corporation operating a commercial passenger bus service in or through the state using a passenger bus that:

(1) is designed and used for the regularly scheduled intercity transportation of passengers for compensation;

(2) is characterized by integral construction with:

(A) an elevated passenger deck over a baggage compartment;

(B) a passenger seating capacity of at least 16 and not more than 36; and

(C) a separate galley area;

(3) is at least 35 feet in length; and

(4) while transporting passengers for compensation, also transports an attendant who:

(A) is not the operator of the bus; and

(B) has attended a commission-approved seller training program.

(b) The holder of a passenger transportation permit issued under this section may:

(1) sell or serve alcoholic beverages in or from any size container on a passenger bus even though the bus, in the course of

its drive, may cross an area in which the sale of alcoholic beverages is prohibited; and

(2) store alcoholic beverages at the permitted location.

(c) The preparation and service of alcoholic beverages by the holder of a passenger transportation permit issued under this section is exempt from a tax imposed by this code and from the tax imposed by Chapter 151, Tax Code.

(d) Section 109.53 does not apply to a passenger transportation permit issued under this section.

(e) Only a holder of a wholesale permit may sell liquor to the holder of a passenger transportation permit issued under this section. A sale of liquor to the holder of a passenger transportation permit issued under this section shall be considered as a sale at retail to a consumer.

Added by Acts 1985, 69th Leg., ch. 540, Sec. 2, eff. June 12, 1985.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 149, eff. September 1, 2021.

Text of chapter effective until September 1, 2021

CHAPTER 48A. PASSENGER BUS BEVERAGE PERMIT

Text of section effective until September 1, 2021

Sec. 48A.01. AUTHORIZED ACTIVITIES; APPLICABILITY OF CHAPTER. The holder of a passenger bus beverage permit:

(1) has the same rights with respect to the sale of alcoholic beverages on a passenger bus, as described by Section 48A.03(a), as the holder of an airline beverage permit has with respect to the sale of alcoholic beverages on a commercial passenger airplane under Section 34.01; and

(2) may store alcoholic beverages at the permitted location.

Added by Acts 2017, 85th Leg., R.S., Ch. 283 (H.B. 3101), Sec. 2, eff. May 29, 2017.

Text of section effective until September 1, 2021

Sec. 48A.02. FEE. The annual fee for a passenger bus beverage

permit is $500.

Added by Acts 2017, 85th Leg., R.S., Ch. 283 (H.B. 3101), Sec. 2, eff. May 29, 2017.

Text of section effective until September 1, 2021

Sec. 48A.03. ELIGIBILITY FOR PERMIT; APPLICATION AND PAYMENT OF FEE. (a) The commission or administrator may issue a passenger bus beverage permit to any corporation operating a commercial passenger bus service in or through the state using a passenger bus that:

(1) is designed and used for the regularly scheduled intercity transportation of passengers for compensation;

(2) is characterized by integral construction with:

(A) an elevated passenger deck over a baggage compartment;

(B) a passenger seating capacity of at least 16 and not more than 36; and

(C) a separate galley area;

(3) is at least 35 feet in length; and

(4) while transporting passengers for compensation, also transports an attendant who:

(A) is not the operator of the bus; and

(B) has attended a commission-approved seller training program.

(b) Application and payment of the fee shall be made directly to the commission.

Added by Acts 2017, 85th Leg., R.S., Ch. 283 (H.B. 3101), Sec. 2, eff. May 29, 2017.

Text of section effective until September 1, 2021

Sec. 48A.04. EXEMPTION FROM TAXES. The preparation and service of alcoholic beverages by the holder of a passenger bus beverage permit is exempt from a tax imposed by this code and from the tax imposed by Chapter 151, Tax Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 283 (H.B. 3101), Sec. 2, eff. May 29, 2017.

Text of section effective until September 1, 2021

Sec. 48A.05. SALE OF LIQUOR TO PERMITTEE. Only a holder of a wholesale permit may sell liquor to a holder of a passenger bus beverage permit. A sale of liquor to a holder of a passenger bus beverage permit shall be considered as a sale at retail to a consumer.

Added by Acts 2017, 85th Leg., R.S., Ch. 283 (H.B. 3101), Sec. 2, eff. May 29, 2017.

Text of section effective until September 1, 2021

Sec. 48A.06. INAPPLICABLE PROVISION. Section 109.53 does not apply to a passenger bus beverage permit.

Added by Acts 2017, 85th Leg., R.S., Ch. 283 (H.B. 3101), Sec. 2, eff. May 29, 2017.

CHAPTER 50. PROMOTIONAL PERMIT

Text of section effective until September 1, 2021

Sec. 50.001. AUTHORIZED ACTIVITIES. The holder of a promotional permit may, on behalf of a distiller, brewer, rectifier, manufacturer, winery, or wine bottler with whom the promotional permit holder has entered into a contract for the purposes of this chapter, engage in activities to promote and enhance the sale of an alcoholic beverage in this state, including activities that take place on the premises of the holder of a permit or license under this code.

Redesignated from Alcoholic Beverage Code, Chapter 54 and amended by Acts 2007, 80th Leg., R.S., Ch. 468 (H.B. 1365), Sec. 1, eff. June 16, 2007.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 150, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 50.001. AUTHORIZED ACTIVITIES. The holder of a promotional permit may, on behalf of a distiller, brewer, rectifier, or winery with whom the promotional permit holder has entered into a contract for the purposes of this chapter, engage in activities to promote and enhance the sale of an alcoholic beverage in this state, including activities that take place on the premises of the holder of a permit or license under this code.

Redesignated from Alcoholic Beverage Code, Chapter 54 and amended by Acts 2007, 80th Leg., R.S., Ch. 468 (H.B. 1365), Sec. 1, eff. June 16, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 150, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 50.002. FEE. (a) The annual state fee for a promotional permit is $300.

(b) A local fee may not be charged for the application or issuance of a promotional permit.

Redesignated from Alcoholic Beverage Code, Chapter 54 and amended by Acts 2007, 80th Leg., R.S., Ch. 468 (H.B. 1365), Sec. 1, eff. June 16, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(17), eff. September 1, 2021.

Sec. 50.003. PROHIBITED ACTIVITIES. The holder of a promotional permit may not hold an interest, directly or indirectly, in a permit or license issued under this code other than a contract to promote and enhance the sale of alcoholic beverages as authorized by this chapter.

Redesignated from Alcoholic Beverage Code, Chapter 54 and amended by Acts 2007, 80th Leg., R.S., Ch. 468 (H.B. 1365), Sec. 1, eff. June 16, 2007.

Sec. 50.004. NONAPPLICABILITY OF CERTAIN REQUIREMENTS TO PERMIT HOLDER. Notwithstanding Section 6.03, 11.46, 11.61, or 109.53, or any other law, the holder of a promotional permit is not required to be a resident of this state.

Redesignated from Alcoholic Beverage Code, Chapter 54 and amended by Acts 2007, 80th Leg., R.S., Ch. 468 (H.B. 1365), Sec. 1, eff. June 16, 2007.

Text of chapter effective until September 1, 2021

Text of chapter effective until September 1, 2021

CHAPTER 51. MINIBAR PERMIT

Text of section effective until September 1, 2021

Sec. 51.01. ELIGIBILITY FOR PERMIT. The commission or the administrator may issue a minibar permit only to the holder of a mixed beverage permit issued for operation in a hotel.

Added by Acts 1989, 71st Leg., ch. 692, Sec. 2, eff. June 14, 1989. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(a)(14), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 51.02. AUTHORIZED ACTIVITIES. The holder of a minibar permit may sell the following alcoholic beverages out of a minibar:

(1) distilled spirits in containers of not less than one ounce nor more than two ounces;

(2) wine and vinous liquors in containers of not more than 13 fluid ounces; and

(3) beer, ale, and malt liquor in containers of not more than 12 fluid ounces.

Added by Acts 1989, 71st Leg., ch. 692, Sec. 2, eff. June 14, 1989. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 152, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 51.03. LIMITED ACCESS TO MINIBAR. (a) Minibars shall be of such design as to prevent access to alcoholic beverages to all persons who do not have a minibar key. The minibar key shall be different from the hotel guestroom key, and the permittee shall not provide the minibar key to any person who is not of legal drinking age.

(b) A permittee may not provide a minibar key to any person other than an employee of the permittee or a registered guest of the hotel.

Added by Acts 1989, 71st Leg., ch. 692, Sec. 2, eff. June 14, 1989.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 153, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 51.04. STOCKING RESTRICTIONS. (a) All employees handling distilled spirits, wine, beer, ale, and malt liquor being stocked in the minibar must be at least 18 years of age.

(b) A minibar may not be restocked or replenished during any hours that a mixed beverage permittee may not sell alcoholic beverages at the location as provided by Section 105.03 of this code and it may contain no more than 40 individual containers of alcoholic beverages at any one time.

(c) A minibar may only be maintained, serviced, or stocked with alcoholic beverages by a person who is an employee of the holder of a minibar permit, and no other person shall be authorized to add alcoholic beverages to a minibar or, with the exception of a registered hotel guest consumer, to remove alcoholic beverages from a minibar.

(d) The holder of a minibar permit shall adhere to standards of quality and purity of alcoholic beverages prescribed by the commission and shall destroy any alcoholic beverages contained in a minibar on the date which is considered by the manufacturer of the alcoholic beverage to be the date the product becomes inappropriate for sale to a consumer.

Added by Acts 1989, 71st Leg., ch. 692, Sec. 2, eff. June 14, 1989.

Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 47, eff. Sept. 1, 1993.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 154, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 51.05. FEE. The annual state fee for an original minibar permit is $2,000. The annual state fee for the first renewal of a minibar permit is $1,500. The annual state fee for the second renewal of a minibar permit is $1,000. The annual state fee for the third and each subsequent renewal of a minibar permit is $750.

Added by Acts 1989, 71st Leg., ch. 692, Sec. 2, eff. June 14, 1989.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(18), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 51.06. PROHIBITED INTERESTS. The holder of a minibar permit may not have a direct or indirect interest in a package store permit, and no package store may be located on the premises of a hotel in which a mixed beverage permittee holds a minibar permit.

Added by Acts 1989, 71st Leg., ch. 692, Sec. 2, eff. June 14, 1989.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 155, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 51.07. MIXED BEVERAGE PERMIT IS PRIMARY. All purchases made by a minibar permittee shall be made under the authority of and subject to the limitations imposed on the mixed beverage permit held by the permittee. All sales made by a minibar permittee shall, for tax purposes, be considered sales under the mixed beverage permit held by the permittee and shall be taxed accordingly. To ensure that the marketing of alcoholic beverages for stocking minibars is not

used by suppliers for purposes of inducement or unauthorized or illegal advertising, it is further provided that:

(1) No person who holds a permit or license authorizing sale of any alcoholic beverage to mixed beverage permittees may sell or offer to sell alcoholic beverages to a minibar permittee at a cost less than the seller's laid-in cost plus the customary and normal profit margin applicable to other container sizes. The laid-in cost shall be defined as the manufacturer's or supplier's invoice price, plus all applicable freight, taxes, and duties.

(2) Proof of laid-in cost shall become a part of the permanent records of each permittee or licensee supplying alcoholic beverages to minibar permittees and be available for a period of two years for inspection by the commission.

(3) No alcoholic beverages offered for use in a minibar may be sold in connection with or conveyed as part of any promotional program providing a discount on the purchase of any other type, size, or brand of alcoholic beverage.

(4) Distilled spirits in containers with a capacity of more than one but less than two fluid ounces must be invoiced separately from any other alcoholic beverage, and the price must be shown on the invoice.

(5) Distilled spirits in containers with a capacity of more than one but less than two fluid ounces may not be returned by the holder of a minibar permit. Neither may the beverages be exchanged by the holder of a minibar permit or redeemed for any reason other than damage noted at the time of delivery and approved by the commission. Claims for breakage or shortage after delivery to a minibar permittee shall not be allowed.

(6) No person holding a wholesaler's, local distributor's, or package store permit may participate in the cost of producing any room menu, beverage list, table tent, or any other device or novelty, written or printed, relating to the sale of distilled spirits in containers with a capacity of more than one but less than two fluid ounces. No permittee or licensee authorized to sell alcoholic beverages to a minibar permittee may pay for or contribute to the cost of providing in-house television or radio announcements to be used by any holder of a minibar permit to promote the sale of alcoholic beverages.

Added by Acts 1989, 71st Leg., ch. 692, Sec. 2, eff. June 14, 1989.

Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 156, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 51.08. DISTILLED SPIRITS PURCHASES. Distilled spirits purchased for resale in a minibar must be purchased in unbroken cases, and the cases shall bear the appropriate identification stamps.

Added by Acts 1989, 71st Leg., ch. 692, Sec. 2, eff. June 14, 1989.

Text of section effective until September 1, 2021

Sec. 51.09. COIN-OPERATED MACHINES PROHIBITED. Nothing in this chapter shall be construed as authorizing nor may the commission or administrator authorize the sale of any alcoholic beverage from a coin-operated machine or similar device operated by the consumer.

Added by Acts 1989, 71st Leg., ch. 692, Sec. 2, eff. June 14, 1989.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. 1090), Sec. 13, eff. September 1, 2013.

Text of section effective until September 1, 2021

Sec. 51.10. COMMISSION MAY ADOPT RULES. The commission may adopt rules necessary to regulate the use and operation of minibars.

Added by Acts 1989, 71st Leg., ch. 692, Sec. 2, eff. June 14, 1989.

Text of chapter effective on September 1, 2021

Text of chapter effective on September 1, 2021

CHAPTER 51. OPERATION OF MINIBARS

Text of section effective on September 1, 2021

Sec. 51.02. AUTHORIZED ACTIVITIES. The holder of a mixed beverage permit issued for operation in a hotel may sell the

following alcoholic beverages out of a minibar:

(1) distilled spirits in containers of not less than one ounce nor more than two ounces;

(2) wine and vinous liquors in containers of not more than 13 fluid ounces; and

(3) malt beverages in containers of not more than 12 fluid ounces.

Added by Acts 1989, 71st Leg., ch. 692, Sec. 2, eff. June 14, 1989.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 152, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 51.03. LIMITED ACCESS TO MINIBAR. (a) Minibars shall be of such design as to prevent access to alcoholic beverages to all persons who do not have a minibar key. The minibar key shall be different from the hotel guestroom key, and the mixed beverage permittee may not provide the minibar key to any person who is not of legal drinking age.

(b) A mixed beverage permittee may not provide a minibar key to any person other than an employee of the permittee or a registered guest of the hotel.

Added by Acts 1989, 71st Leg., ch. 692, Sec. 2, eff. June 14, 1989.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 153, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 51.04. STOCKING RESTRICTIONS. (a) All employees handling distilled spirits, wine, and malt beverages being stocked in the minibar must be at least 18 years of age.

(b) A minibar may not be restocked or replenished during any hours that a mixed beverage permittee may not sell alcoholic beverages at the location as provided by Section 105.03 of this code and it may contain no more than 40 individual containers of alcoholic beverages at any one time.

(c) A minibar may only be maintained, serviced, or stocked with alcoholic beverages by a person who is an employee of the holder of a mixed beverage permit, and no other person shall be authorized to add alcoholic beverages to a minibar or, with the exception of a registered hotel guest consumer, to remove alcoholic beverages from a minibar.

(d) A mixed beverage permit holder who operates a minibar shall adhere to standards of quality and purity of alcoholic beverages prescribed by the commission and shall destroy any alcoholic beverages contained in a minibar on the date which is considered by the manufacturer of the alcoholic beverage to be the date the product becomes inappropriate for sale to a consumer.

Added by Acts 1989, 71st Leg., ch. 692, Sec. 2, eff. June 14, 1989.
Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 47, eff. Sept. 1, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 154, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 51.06. PROHIBITED INTERESTS. The holder of a mixed beverage permit who operates a minibar may not have a direct or indirect interest in a package store permit, and a package store may not be located on the premises of a hotel in which a mixed beverage permittee operates a minibar.

Added by Acts 1989, 71st Leg., ch. 692, Sec. 2, eff. June 14, 1989.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 155, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 51.07. MIXED BEVERAGE PERMIT IS PRIMARY. All purchases made by a holder of a mixed beverage permit who operates a minibar shall be made under the authority of and subject to the limitations imposed on the mixed beverage permit held by the permittee. All sales shall, for tax purposes, be considered sales under the mixed

beverage permit held by the permittee and shall be taxed accordingly. To ensure that the marketing of alcoholic beverages for stocking minibars is not used by suppliers for purposes of inducement or unauthorized or illegal advertising, it is further provided that:

(1) No person who holds a permit or license authorizing sale of any alcoholic beverage to mixed beverage permittees may sell or offer to sell alcoholic beverages to the mixed beverage permittee at a cost less than the seller's laid-in cost plus the customary and normal profit margin applicable to other container sizes. The laid-in cost shall be defined as the manufacturer's or supplier's invoice price, plus all applicable freight, taxes, and duties.

(2) Proof of laid-in cost shall become a part of the permanent records of each permittee or licensee supplying alcoholic beverages to a mixed beverage permittee who operates a minibar and be available for a period of two years for inspection by the commission.

(3) No alcoholic beverages offered for use in a minibar may be sold in connection with or conveyed as part of any promotional program providing a discount on the purchase of any other type, size, or brand of alcoholic beverage.

(4) Distilled spirits in containers with a capacity of more than one but less than two fluid ounces must be invoiced separately from any other alcoholic beverage, and the price must be shown on the invoice.

(5) Distilled spirits in containers with a capacity of more than one but less than two fluid ounces may not be returned by the mixed beverage permit holder. Neither may the beverages be exchanged by the mixed beverage permit holder or redeemed for any reason other than damage noted at the time of delivery and approved by the commission. Claims for breakage or shortage after delivery to a mixed beverage permit holder who operates a minibar shall not be allowed.

(6) No person holding a wholesaler's, local distributor's, or package store permit may participate in the cost of producing any room menu, beverage list, table tent, or any other device or novelty, written or printed, relating to the sale of distilled spirits in containers with a capacity of more than one but less than two fluid ounces. No permittee or licensee authorized to sell alcoholic beverages to a mixed beverage permittee who operates a minibar may pay for or contribute to the cost of providing in-house television or

radio announcements to be used by any holder of a mixed beverage permit who operates a minibar to promote the sale of alcoholic beverages.

Added by Acts 1989, 71st Leg., ch. 692, Sec. 2, eff. June 14, 1989.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 156, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 51.08. DISTILLED SPIRITS PURCHASES. Distilled spirits purchased for resale in a minibar must be purchased in unbroken cases, and the cases shall bear the appropriate identification stamps.

Added by Acts 1989, 71st Leg., ch. 692, Sec. 2, eff. June 14, 1989.

Text of section effective on September 1, 2021

Sec. 51.09. COIN-OPERATED MACHINES PROHIBITED. Nothing in this chapter shall be construed as authorizing nor may the commission or administrator authorize the sale of any alcoholic beverage from a coin-operated machine or similar device operated by the consumer.

Added by Acts 1989, 71st Leg., ch. 692, Sec. 2, eff. June 14, 1989.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. 1090), Sec. 13, eff. September 1, 2013.

Text of section effective on September 1, 2021

Sec. 51.10. COMMISSION MAY ADOPT RULES. The commission may adopt rules necessary to regulate the use and operation of minibars.

Added by Acts 1989, 71st Leg., ch. 692, Sec. 2, eff. June 14, 1989.

Text of chapter effective until September 1, 2021

CHAPTER 52. PACKAGE STORE TASTING PERMIT

Text of section effective until September 1, 2021

Sec. 52.01. AUTHORIZED ACTIVITIES. (a) Except as provided by this subsection, the holder of a package store tasting permit may conduct product tastings of distilled spirits, wine, beer, and malt-based or spirit-based coolers on the permitted premises of the holder's package store or wine only package store during regular business hours as provided by this section. The holder of a wine only package store permit and a package store tasting permit may conduct product tastings only of alcoholic beverages the permit holder is authorized to sell under Section 24.01.

(b) Written notification of a product tasting must be posted on the licensed premises of the permit holder's package store not later than 48 hours before the tasting event. The notification shall clearly state:

(1) the type and brand of alcoholic beverage to be tasted;

(2) the date and hours the tasting is to take place; and

(3) the address of the premises where the tasting is to occur.

(c) A copy of the notification shall be kept on file and available for inspection on the premises during all tasting hours.

(d) Sample portions at a product tasting shall be limited to no more than:

(1) one-half ounce for distilled spirits;

(2) one ounce for wine; and

(3) one ounce for beer and coolers.

(e) Not more than 20 different products may be made available for tasting at any one time.

(f) Repealed by Acts 2003, 78th Leg., ch. 1063, Sec. 2.

(g) No charge of any sort may be made for a sample serving.

(h) A person may be served more than one sample. Samples may not be served to a minor or to an obviously intoxicated person. No samples may be removed from the licensed premises.

(i) During the tasting, not more than two containers of each brand or type of product being tasted may be open on the premises at one time.

(j) At the conclusion of the tasting, all empty or open containers of alcoholic beverages used in the tasting shall be removed from the premises or stored in a locked, secure area on the licensed premises.

(k) A tasting event authorized by this section may not be

advertised except by on-site communications, by direct mail, by electronic mail, or on the permit holder's Internet website.

(l) Except as provided by Subsection (m) or elsewhere in this code, a person other than the permittee or the permittee's agent or employee may not dispense or participate in the dispensing of alcoholic beverages under this chapter.

(m) The holder of a distiller's or rectifier's permit, distiller's agent's permit, nonresident seller's permit, or manufacturer's agent's permit or that permit holder's agent or employee may participate in and conduct product tastings of alcoholic beverages at a retailer's premises and may open, touch, or pour alcoholic beverages, make a presentation, or answer questions at the tasting. Any alcoholic beverage tasted under this subsection must be purchased from the package store permit holder on whose premises the tasting is held. The permit holder may not require the purchase of more alcoholic beverages than are necessary for the tasting. This section does not authorize the holder of a distiller's or rectifier's permit, distiller's agent's permit, nonresident seller's permit, or manufacturer's agent's permit to withdraw or purchase an alcoholic beverage from the holder of a wholesaler's permit or provide an alcoholic beverage for tasting on a retailer's premises that is not purchased from the retailer.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 49, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 1063, Sec. 1, 2, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 192 (H.B. 937), Sec. 5, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1291 (H.B. 2590), Sec. 3, eff. June 18, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 451 (S.B. 828), Sec. 4, eff. September 1, 2013.

Text of section effective until September 1, 2021

Sec. 52.02. FEE. The annual state fee for a package store tasting permit is $25. The fee is in addition to and subject to the same conditions as the fee paid for the holder's package store permit.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 49, eff. Sept. 1, 1993.

Text of section effective until September 1, 2021

Sec. 52.03. ELIGIBILITY FOR PERMIT. The commission or the administrator may only issue a package store tasting permit to a holder of a package store permit or wine only package store permit. For the purposes of this code and any other law of the state or political subdivision of the state, a package store tasting permit may not be considered a permit authorizing the sale of alcoholic beverages for on-premise consumption. Since no charge may be made for a sample tasted on the premises of a package store, none of a package store's or wine only package store's revenue may be deemed to be revenue from the on-premise sale of alcoholic beverages.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 49, eff. Sept. 1, 1993.
Amended by:

Acts 2005, 79th Leg., Ch. 1291 (H.B. 2590), Sec. 4, eff. June 18, 2005.

Text of chapter effective until September 1, 2021

CHAPTER 53. TEMPORARY AUCTION PERMIT

Text of section effective until September 1, 2021

Sec. 53.001. AUTHORIZED ACTIVITIES. The holder of a temporary auction permit may auction alcoholic beverages for consumption off premises to raise money to support the stated purpose of the permit holder.

Added by Acts 1997, 75th Leg., ch. 527, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1107 (H.B. 4042), Sec. 1, eff. September 1, 2017.

Text of section effective until September 1, 2021

Sec. 53.002. FEE. (a) The state fee for a temporary auction permit is $25.

(b) A local fee may not be charged for the application for or

issuance of a temporary auction permit.

(c) The commission may not impose a surcharge for a temporary auction permit.

Added by Acts 1997, 75th Leg., ch. 527, Sec. 1, eff. Sept. 1, 1997.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 1107 (H.B. 4042), Sec. 1, eff. September 1, 2017.

Text of section effective until September 1, 2021

Sec. 53.003. DURATION OF PERMIT. A temporary auction permit may be issued for a period of not more than five days.

Added by Acts 1997, 75th Leg., ch. 527, Sec. 1, eff. Sept. 1, 1997.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 1107 (H.B. 4042), Sec. 1, eff. September 1, 2017.

Text of section effective until September 1, 2021

Sec. 53.004. PERMIT. The commission may issue a temporary auction permit only to:

(1) an organization that is exempt from taxation under Section 501(a), Internal Revenue Code of 1986 (26 U.S.C. Section 501(a)) by being listed under Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3)); or

(2) a person or group of persons who are subject to recordkeeping requirements under Chapter 254, Election Code.

Added by Acts 1997, 75th Leg., ch. 527, Sec. 1, eff. Sept. 1, 1997.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 1107 (H.B. 4042), Sec. 1, eff. September 1, 2017.

Text of section effective until September 1, 2021

Sec. 53.005. AUCTION LOCATION. (a) The holder of a temporary auction permit may conduct an auction in any area where the sale of the type of alcoholic beverage to be auctioned is authorized by a

local option election.

(b) The holder of a temporary auction permit may conduct an auction at a premises of another permit or license holder if:

(1) the alcoholic beverages to be auctioned are kept separate from the alcoholic beverages sold, stored, or served at the premises; and

(2) the alcoholic beverages subject to the auction, whether sold or unsold, are removed from the premises immediately following the auction.

Added by Acts 1997, 75th Leg., ch. 527, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1107 (H.B. 4042), Sec. 1, eff. September 1, 2017.

Text of section effective until September 1, 2021

Sec. 53.006. AUCTION NOTICE. Before an auction is held, the holder of a temporary auction permit shall provide to the branch office of the commission located closest to the auction site written notice of:

(1) the date, time, and place of the auction; and

(2) the inventory of the alcoholic beverages to be auctioned.

Added by Acts 1997, 75th Leg., ch. 527, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1107 (H.B. 4042), Sec. 1, eff. September 1, 2017.

Text of section effective until September 1, 2021

Sec. 53.007. DISPOSITION OF PROCEEDS. The proceeds from an auction authorized by this chapter shall be deposited to the account of the holder of a temporary auction permit.

Added by Acts 1997, 75th Leg., ch. 527, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1107 (H.B. 4042), Sec. 1, eff. September 1, 2017.

Text of section effective until September 1, 2021

Sec. 53.008. PROHIBITED ACTIVITIES. The holder of a temporary auction permit may not:

(1) auction distilled spirits, wine, ale, or malt liquor that has not been donated to the organization;

(2) auction alcoholic beverages if any taxes are owed on the beverages; and

(3) pay a commission or promotional allowance to a person to:

(A) arrange or conduct an auction under this chapter; or

(B) arrange the donation of alcoholic beverages to be auctioned by the organization.

Added by Acts 1997, 75th Leg., ch. 527, Sec. 1, eff. Sept. 1, 1997.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 1107 (H.B. 4042), Sec. 1, eff. September 1, 2017.

Text of section effective until September 1, 2021

Sec. 53.009. RULES. (a) The commission shall adopt rules governing the issuance and use of a temporary auction permit.

(b) The commission shall adopt rules establishing penalties for the violation of rules adopted under this chapter. A penalty established by the commission under this subsection may not exceed a penalty that the commission may impose on the holder of another temporary license or permit.

Added by Acts 1997, 75th Leg., ch. 527, Sec. 1, eff. Sept. 1, 1997.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 1107 (H.B. 4042), Sec. 1, eff. September 1, 2017.

CHAPTER 54. OUT-OF-STATE WINERY DIRECT SHIPPER'S PERMIT

Sec. 54.01. AUTHORIZED ACTIVITIES. The holder of an out-of-state winery direct shipper's permit may sell and deliver wine that

is produced or bottled by the permittee to an ultimate consumer located in the State of Texas. Delivery must be by the holder of a carrier permit.

Added by Acts 2005, 79th Leg., Ch. 36 (S.B. 877), Sec. 2, eff. May 9, 2005.

Sec. 54.02. PROHIBITED ACTIVITIES. The holder of an out-of-state winery direct shipper's permit may not:

(1) sell or ship wine to a minor;

(2) deliver wine to a consumer using a carrier that does not hold a carrier's permit under this code;

(3) deliver to the same consumer in this state more than nine gallons of wine within any calendar month or more than 36 gallons of wine within any 12-month period; or

(4) sell to ultimate consumers more than 35,000 gallons of wine annually.

Added by Acts 2005, 79th Leg., Ch. 36 (S.B. 877), Sec. 2, eff. May 9, 2005.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 346 (H.B. 1084), Sec. 2, eff. September 1, 2009.

Sec. 54.03. QUALIFICATIONS FOR PERMIT. An out-of-state winery direct shipper's permit may only be issued to a person who:

(1) does not hold a winery permit in the State of Texas;

(2) operates a winery located in the United States and holds all state and federal permits necessary to operate the winery, including the federal winemaker's and blender's basic permit;

(3) holds a Texas sales tax permit;

(4) expressly submits to personal jurisdiction in Texas state and federal courts and expressly submits to venue in Travis County, Texas, as proper venue for any proceedings that may be initiated by or against the commission; and

(5) does not directly or indirectly have any financial interest in a Texas wholesaler or retailer as those terms are used in Section 102.01.

Added by Acts 2005, 79th Leg., Ch. 36 (S.B. 877), Sec. 2, eff. May 9, 2005.

Text of section effective until September 1, 2021

Sec. 54.04. PERMIT FEE. The annual state fee for an out-of-state winery direct shipper's permit is $75.

Added by Acts 2005, 79th Leg., Ch. 36 (S.B. 877), Sec. 2, eff. May 9, 2005.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(19), eff. September 1, 2021.

Sec. 54.05. IDENTIFICATION REQUIREMENTS. (a) All wine sold or shipped by the holder of an out-of-state winery direct shipper's permit must be in a package that is clearly and conspicuously labeled showing that:

(1) the package contains wine; and

(2) the package may only be delivered to a person described in Subsection (b).

(b) Wine sold or shipped by a holder of an out-of-state winery direct shipper's permit may not be delivered to any person other than:

(1) the person who purchased the wine;

(2) a recipient designated in advance by such purchaser; or

(3) a person at the delivery address who is age 21 or over.

(c) Wine may be delivered only to a person who is age 21 or over after the person accepting the package:

(1) presents valid proof of identity and age; and

(2) personally signs a receipt acknowledging delivery of the package.

Added by Acts 2005, 79th Leg., Ch. 36 (S.B. 877), Sec. 2, eff. May 9, 2005.

Sec. 54.06. REPORTS AND RECORDKEEPING. (a) The holder of an out-of-state winery direct shipper's permit shall maintain records of

all sales and deliveries made under the permit.

(b) The holder of an out-of-state winery direct shipper's permit shall maintain complete sales and delivery records for all sales and deliveries made under the permit for at least five years from the date of sale. These records shall be made available upon request for inspection by the commission or any other appropriate state agency.

(c) The commission shall establish rules requiring the holder of an out-of-state winery direct shipper's permit to periodically file reports providing the commission with such information as the commission may determine is needed to more efficiently and effectively enforce the state laws applicable to the permit holder.

Added by Acts 2005, 79th Leg., Ch. 36 (S.B. 877), Sec. 2, eff. May 9, 2005.

Sec. 54.07. LIABILITY FOR AND PAYMENT OF TAXES. (a) Sales made by the holder of an out-of-state winery direct shipper's permit shall be deemed to have been made in the State of Texas for delivery in the State of Texas.

(b) The holder of an out-of-state winery direct shipper's permit shall be responsible for paying the following state taxes related to sales and deliveries made under this chapter:

(1) excise taxes on the wine sold, payable at the same rate and in the same manner as if the permittee were a Texas winery located in Texas; and

(2) state sales and use taxes all payable at the same rate and in the same manner as if the permittee were a Texas winery located in Texas.

(c) An ultimate consumer who purchases wine from the holder of an out-of-state winery direct shipper's permit under this chapter shall be considered to be purchasing the wine from a Texas permittee and shall not be charged the administrative fee for personal imports set forth in Section 107.07.

Added by Acts 2005, 79th Leg., Ch. 36 (S.B. 877), Sec. 2, eff. May 9, 2005.

Sec. 54.08. RESALE PROHIBITED. A consumer purchasing wine from

the holder of an out-of-state winery direct shipper's permit may not resell the wine, and any such wine that is resold is an illicit beverage as defined in Section 1.04(4).

Added by Acts 2005, 79th Leg., Ch. 36 (S.B. 877), Sec. 2, eff. May 9, 2005.

Sec. 54.09. DELIVERY AREAS. Wine shipped under this chapter may be delivered to persons located in a dry area.

Added by Acts 2005, 79th Leg., Ch. 36 (S.B. 877), Sec. 2, eff. May 9, 2005.

Sec. 54.10. WINE LABEL APPROVAL NOT REQUIRED. If the holder of an out-of-state winery direct shipper's permit has satisfied all federal label approval requirements for a particular brand of wine, then no further label approval shall be required by the commission.

Added by Acts 2005, 79th Leg., Ch. 36 (S.B. 877), Sec. 2, eff. May 9, 2005.

Sec. 54.11. RULES. The commission shall adopt rules and forms necessary to implement this chapter.

Added by Acts 2005, 79th Leg., Ch. 36 (S.B. 877), Sec. 2, eff. May 9, 2005.

Sec. 54.12. PENALTY FOR SHIPPING WITHOUT A PERMIT. Any person who does not hold an out-of-state winery direct shipper's permit who sells and ships alcohol from outside of Texas to an ultimate consumer in Texas commits on first offense a Class B misdemeanor, on second offense a Class A misdemeanor, and on third offense a state jail felony.

Added by Acts 2005, 79th Leg., Ch. 36 (S.B. 877), Sec. 2, eff. May 9, 2005.

CHAPTER 55. MANUFACTURER'S AGENT'S WAREHOUSING PERMIT

Sec. 55.01. AUTHORIZED ACTIVITIES.

Text of subsection effective until September 1, 2021

(a) The holder of a manufacturer's agent's warehousing permit may:

(1) receive beer, ale, or malt liquor from the holder of a nonresident brewer's permit or nonresident manufacturer's license and store the alcoholic beverages on the permitted premises;

(2) ship, cause to be shipped, sell, and otherwise transfer the beer, ale, or malt liquor to licensed or permitted distributors and wholesalers in this state and to persons outside this state who are qualified to receive the beer, ale, or malt liquor under the regulatory laws of the state or other jurisdiction in which the beer, ale, or malt liquor is received; and

(3) return beer, ale, or malt liquor to the manufacturer or brewer from which it was originally received.

Text of subsection effective on September 1, 2021

(a) The holder of a manufacturer's agent's warehousing permit may:

(1) receive malt beverages from the holder of a nonresident brewer's license and store the alcoholic beverages on the permitted premises;

(2) ship, cause to be shipped, sell, and otherwise transfer the malt beverages to licensed distributors in this state and to persons outside this state who are qualified to receive the malt beverages under the regulatory laws of the state or other jurisdiction in which the malt beverages are received; and

(3) return malt beverages to the brewer from which they were originally received.

Text of subsection effective until September 1, 2021

(b) The holder of a manufacturer's agent's warehousing permit may ship only to wholesalers and distributors in this state who have been issued a territorial designation by the actual manufacturer or brewer of the brand or brands to be shipped. This territorial designation for the sale of beer must be under and a part of the agreement entered into between the actual manufacturer of the brand and the distributor under Subchapters C and D, Chapter 102. This chapter does not affect the requirement that the actual manufacturer,

and the agreement between the actual manufacturer and the distributor, comply with Subchapters C and D, Chapter 102.

Text of subsection effective on September 1, 2021

(b) The holder of a manufacturer's agent's warehousing permit may ship only to distributors in this state who have been issued a territorial designation by the actual brewer of the brand or brands to be shipped. This territorial designation for the sale of malt beverages must be under and a part of the agreement entered into between the actual brewer of the brand and the distributor under Subchapters C and D, Chapter 102. This chapter does not affect the requirement that the actual brewer, and the agreement between the actual brewer and the distributor, comply with Subchapters C and D, Chapter 102.

Text of subsection effective until September 1, 2021

(c) Beer, ale, or malt liquor received at premises permitted under this chapter that is not labeled and approved for sale in this state may be held and stored at the premises and may be shipped from the premises if it is consigned and transported to qualified persons in other states or jurisdictions where its sale is legal.

Text of subsection effective on September 1, 2021

(c) Malt beverages received at premises permitted under this chapter that are not labeled and approved for sale in this state may be held and stored at the premises and may be shipped from the premises if the malt beverages are consigned and transported to qualified persons in other states or jurisdictions where their sale is legal.

(d) The provisions of this code related to the residency of an applicant for a permit do not apply to a permit under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 247 (H.B. 2727), Sec. 1, eff. September 1, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 157, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 55.02. FEE. The commission by rule shall set the amount of the annual state fee for a manufacturer's agent's warehousing

permit.

Added by Acts 2007, 80th Leg., R.S., Ch. 247 (H.B. 2727), Sec. 1, eff. September 1, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(20), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 55.03. ELIGIBILITY FOR PERMIT. A manufacturer's agent's warehousing permit may be issued to an entity:

(1) that receives beer, ale, or malt liquor from another entity, or that other entity's immediate successor in interest, that:

(A) is located and chartered in the United Mexican States;

(B) has held a nonresident manufacturer's license, nonresident brewer's permit, and a nonresident seller's permit for the two years preceding the date of the application; and

(C) during each of those two years has shipped or caused to be shipped into this state for ultimate sale to qualified distributors and wholesalers in this state at least one-half million barrels of beer, ale, or malt liquor of the various brands manufactured or brewed by the entity; and

(2) whose employees, located in this state or elsewhere, hold permits and licenses issued under Chapters 36 and 73 to perform the activities authorized under those chapters on behalf of the entity.

Added by Acts 2007, 80th Leg., R.S., Ch. 247 (H.B. 2727), Sec. 1, eff. September 1, 2007.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 129 (S.B. 350), Sec. 1, eff. September 1, 2013.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 158, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 55.03. ELIGIBILITY FOR PERMIT. A manufacturer's agent's

warehousing permit may be issued to an entity:

(1) that receives malt beverages from another entity, or that other entity's immediate successor in interest, that:

(A) is located and chartered in the United Mexican States;

(B) has held, for the two years preceding the date of the application:

(i) a nonresident manufacturer's license, nonresident brewer's permit, and a nonresident seller's permit;

(ii) a nonresident brewer's license and a nonresident seller's permit; or

(iii) a combination of Subparagraph (i) and Subparagraph (ii); and

(C) during each of those two years has shipped or caused to be shipped into this state for ultimate sale to qualified distributors and wholesalers in this state at least one-half million barrels of malt beverages of the various brands manufactured or brewed by the entity; and

(2) whose employees, located in this state or elsewhere, perform the activities authorized under Chapters 36 and 73 on behalf of the entity.

Added by Acts 2007, 80th Leg., R.S., Ch. 247 (H.B. 2727), Sec. 1, eff. September 1, 2007.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 129 (S.B. 350), Sec. 1, eff. September 1, 2013.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 158, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 55.04. LOCATION OF PREMISES. The premises of a permit holder under this chapter must be located in an area that is wet for the sale of beer, ale, and malt liquor.

Added by Acts 2007, 80th Leg., R.S., Ch. 247 (H.B. 2727), Sec. 1, eff. September 1, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 159, eff.

September 1, 2021.

Text of section effective on September 1, 2021

Sec. 55.04. LOCATION OF PREMISES. The premises of a permit holder under this chapter must be located in an area that is wet for the sale of malt beverages.

Added by Acts 2007, 80th Leg., R.S., Ch. 247 (H.B. 2727), Sec. 1, eff. September 1, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 159, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 55.05. REPORTING REQUIREMENTS. The commission shall require monthly reports from a permit holder under this chapter showing the brands, types, sizes of containers, and quantities of beer, ale, or malt liquor received at and shipped from the premises to persons authorized to receive them. The reports must conform in all respects to the requirements and forms prescribed by the commission and contain any other information required by the commission.

Added by Acts 2007, 80th Leg., R.S., Ch. 247 (H.B. 2727), Sec. 1, eff. September 1, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 160, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 55.05. REPORTING REQUIREMENTS. The commission shall require monthly reports from a permit holder under this chapter showing the brands, types, sizes of containers, and quantities of malt beverages received at and shipped from the premises to persons authorized to receive them. The reports must conform in all respects to the requirements and forms prescribed by the commission and contain any other information required by the commission.

Added by Acts 2007, 80th Leg., R.S., Ch. 247 (H.B. 2727), Sec. 1, eff. September 1, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 160, eff. September 1, 2021.

CHAPTER 56. WATER PARK PERMIT

Sec. 56.01. AUTHORIZED ACTIVITIES. Notwithstanding any other provision of this code, the holder of two or more water park permits may deliver alcoholic beverages from any premises for which one of those permits has been issued to any other premises for which one of those permits has been issued.

Added by Acts 2017, 85th Leg., R.S., Ch. 32 (S.B. 1176), Sec. 1, eff. May 18, 2017.

Text of section effective until September 1, 2021

Sec. 56.02. QUALIFICATIONS FOR PERMIT; ELIGIBLE PREMISES. (a) A water park permit may be issued only to a person who:

(1) holds a wine and beer retailer's permit under Chapter 25; and

(2) operates a public venue that:

(A) involves waterslides, food service, music, and amusement activities; and

(B) is located primarily along the banks of the Comal River.

(b) A person described by Subsection (a) may be issued water park permits for not more than five premises:

(1) for which wine and beer retailer's permits have been issued under Chapter 25; and

(2) that are located:

(A) in the public venue described in Subsection (a)(2); or

(B) not more than one mile from the boundary of that venue.

Added by Acts 2017, 85th Leg., R.S., Ch. 32 (S.B. 1176), Sec. 1, eff. May 18, 2017.

Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 161, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 56.02. QUALIFICATIONS FOR PERMIT; ELIGIBLE PREMISES. (a) A water park permit may be issued only to a person who:

(1) holds a wine and malt beverage retailer's permit under Chapter 25; and

(2) operates a public venue that:

(A) involves waterslides, food service, music, and amusement activities; and

(B) is located primarily along the banks of the Comal River.

(b) A person described by Subsection (a) may be issued water park permits for not more than five premises:

(1) for which wine and malt beverage retailer's permits have been issued under Chapter 25; and

(2) that are located:

(A) in the public venue described in Subsection (a)(2); or

(B) not more than one mile from the boundary of that venue.

Added by Acts 2017, 85th Leg., R.S., Ch. 32 (S.B. 1176), Sec. 1, eff. May 18, 2017.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 161, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 56.03. FEE. The annual state fee for a water park permit is $30.

Added by Acts 2017, 85th Leg., R.S., Ch. 32 (S.B. 1176), Sec. 1, eff. May 18, 2017.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec.

409(b)(21), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 56.04. APPLICABILITY OF OTHER LAW. Except as otherwise provided in this chapter, the provisions of this code applicable to a wine and beer retailer's permit apply to a water park permit.

Added by Acts 2017, 85th Leg., R.S., Ch. 32 (S.B. 1176), Sec. 1, eff. May 18, 2017.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 162, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 56.04. APPLICABILITY OF OTHER LAW. Except as otherwise provided in this chapter, the provisions of this code applicable to a wine and malt beverage retailer's permit apply to a water park permit.

Added by Acts 2017, 85th Leg., R.S., Ch. 32 (S.B. 1176), Sec. 1, eff. May 18, 2017.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 162, eff. September 1, 2021.

This Chapter 57, consisting of Secs. 57.01 to 57.09, was added by Acts 2019, 86th Leg., R.S., Ch. 441 (S.B. 1450), Sec. 3.

See also another Chapter 57, consisting of Secs. 57.001 to 57.005, as added by Acts 2019, 86th Leg., R.S., Ch. 1161 (H.B. 3222), Sec. 2.

CHAPTER 57. CONSUMER DELIVERY PERMIT

Sec. 57.01. AUTHORIZED ACTIVITIES. (a) The holder of a consumer delivery permit may contract with or employ a driver for the delivery of an alcoholic beverage from the premises of the holder of a retailer's permit described by Subsection (b) to an ultimate consumer located in an area where the sale of the beverage is legal.

(b) An alcoholic beverage may be delivered under this section

only if the alcoholic beverage is sold to the ultimate consumer by the holder of a:

(1) package store permit;

(2) wine only package store permit;

(3) wine and beer retailer's permit;

(4) wine and beer retailer's off-premise permit;

(5) retail dealer's on-premise license;

(6) retail dealer's off-premise license; or

(7) mixed beverage permit authorized to deliver alcoholic beverages under Section 28.1001.

Added by Acts 2019, 86th Leg., R.S., Ch. 441 (S.B. 1450), Sec. 3, eff. September 1, 2019.

Sec. 57.02. DETERMINATION OF DELIVERY AREA. (a) In determining whether the sale of an alcoholic beverage is legal in an area for purposes of Section 57.01, a person who sells or delivers an alcoholic beverage under that section may consult a map or other publicly available information produced by the commission for the purpose of establishing where the sale of alcoholic beverages is legal.

(b) The holder of a consumer delivery permit may make deliveries of alcoholic beverages:

(1) only in response to bona fide orders placed by the consumer under Section 57.01; and

(2) only in areas where the sale of the beverages is legal in:

(A) the county in which the premises of the retailer making the sale is located;

(B) the city or town in which the premises of the retailer making the sale is located, if the retailer is located in a city or town; or

(C) an area not further than two miles beyond the municipal boundary of the city or town in which the premises of the retailer is located, if applicable.

(c) It is a defense to a prosecution alleging that an individual delivered an alcoholic beverage under this chapter to an address located in an area that is dry for the type of beverage delivered that:

(1) the individual or the holder of a consumer delivery permit relied on publicly available information produced by the commission relating to the wet or dry classification of the address; and

(2) the information indicated that the address to which the beverage was delivered was classified as wet for the type of beverage delivered on the date of the delivery.

Added by Acts 2019, 86th Leg., R.S., Ch. 441 (S.B. 1450), Sec. 3, eff. September 1, 2019.

Sec. 57.03. FEE. The commission by rule shall establish the annual state fee for a consumer delivery permit.

Added by Acts 2019, 86th Leg., R.S., Ch. 441 (S.B. 1450), Sec. 3, eff. September 1, 2019.

Sec. 57.04. ELIGIBILITY FOR PERMIT. A consumer delivery permit may be issued to:

(1) a person who contracts with or employs individuals for the delivery of retail goods to consumers, other than the holder of a permit or license in the manufacturing or wholesale tier of the alcoholic beverage industry; or

(2) the holder of a permit or license described by Section 57.01(b).

Added by Acts 2019, 86th Leg., R.S., Ch. 441 (S.B. 1450), Sec. 3, eff. September 1, 2019.

Sec. 57.05. DELIVERY DRIVER REQUIREMENTS. A consumer delivery permit holder under this chapter may not contract with or employ a person to make a delivery under this chapter unless the person:

(1) is 21 years of age or older; and

(2) holds a valid driver's license.

Added by Acts 2019, 86th Leg., R.S., Ch. 441 (S.B. 1450), Sec. 3, eff. September 1, 2019.

Sec. 57.06. DELIVERY OF ALCOHOLIC BEVERAGES TO CONSUMER. (a) An alcoholic beverage may be delivered under this chapter only to a person who is 21 years of age or older after the person accepting the delivery presents valid proof of identity and age.

(b) An alcoholic beverage may not be delivered under this chapter to any person other than:

(1) the person who purchased the beverage;

(2) a recipient designated in advance by the purchaser; or

(3) a person at the delivery address who is 21 years of age or older.

(c) An alcoholic beverage may be delivered under this chapter outside the hours of operation of the retailer from which the delivery is being made only if the delivery driver:

(1) receives the beverage from the retailer during the retailer's hours of legal sale; and

(2) completes the delivery to the consumer in a reasonable amount of time after leaving the retailer's premises.

Added by Acts 2019, 86th Leg., R.S., Ch. 441 (S.B. 1450), Sec. 3, eff. September 1, 2019.

Sec. 57.07. RETAILER RESPONSIBILITY. (a) A retailer's responsibilities under this code regarding delivery of an alcoholic beverage to an ultimate consumer are considered satisfied at the time the retailer transfers possession of an alcoholic beverage to the consumer delivery permittee or a delivery driver employed by, contracted with, or acting on behalf of the holder of a consumer delivery permit.

(b) An action by a consumer delivery permittee or by a delivery driver is not attributable to the retailer with regard to:

(1) providing, selling, or serving alcohol to a minor or to an intoxicated individual;

(2) the delivery of alcohol in a dry or otherwise illegal area, unless the retailer has contractually agreed to retain responsibility for ensuring that deliveries are not directed to a dry or otherwise illegal area; or

(3) any other provision of this code.

(c) A retailer:

(1) is not required to verify that the consumer delivery

permittee or the delivery driver has received delivery driver training under Section 57.09(a)(1); and

(2) may not be held responsible for any reason under statutory or common law for the actions of a consumer delivery permittee or a delivery driver acting on behalf of a consumer delivery permittee.

Added by Acts 2019, 86th Leg., R.S., Ch. 441 (S.B. 1450), Sec. 3, eff. September 1, 2019.

Sec. 57.08. RESPONSIBILITY OF HOLDER OF CONSUMER DELIVERY PERMIT. (a) The actions of a delivery driver acting on behalf of a holder of a consumer delivery permit are not attributable to a holder of a consumer delivery permit if the permit holder has not directly or indirectly encouraged the delivery driver to violate the law and the delivery driver:

(1) has a valid certification from the training program adopted under Section 57.09(a)(1); or

(2) completed the delivery using an alcohol delivery compliance software application that meets the requirements established under Section 57.09(a)(2).

(b) Notwithstanding Subsection (a), if it is found, after notice and hearing, that the permittee, an agent or employee of the permittee, or a person acting on behalf of the permittee delivered with criminal negligence an alcoholic beverage to a minor or an intoxicated person, the commission or administrator may:

(1) suspend the permit for not more than 90 days for the first violation;

(2) suspend the permit for not more than six months for the second violation; and

(3) suspend the permit for not more than 12 months for a third violation within a period of 36 consecutive months.

(c) It is a rebuttable presumption that a sale or delivery of an alcoholic beverage to a minor or an intoxicated person was not made with criminal negligence if the delivery driver:

(1) at the time of the delivery held a valid certification from the training program adopted under Section 57.09(a)(1); and

(2) completed the delivery as a result of a technical malfunction of an alcohol delivery compliance software application

that otherwise meets the requirements established under Section 57.09(a)(2).

Added by Acts 2019, 86th Leg., R.S., Ch. 441 (S.B. 1450), Sec. 3, eff. September 1, 2019.

Sec. 57.09. DELIVERY TRAINING PROGRAM AND VERIFICATION SYSTEMS. (a) The commission by rule shall:

(1) adopt and administer an alcohol delivery training program for the purpose of training and certifying delivery drivers contracting with or employed by the holder of a permit under Section 28.1001 or this chapter; and

(2) establish minimum requirements for alcohol delivery compliance software applications.

(b) The commission shall implement a system that allows the holder of a retail permit or a consumer delivery permit to verify in real time whether a delivery driver has a valid certification from the training program adopted under Subsection (a)(1).

Added by Acts 2019, 86th Leg., R.S., Ch. 441 (S.B. 1450), Sec. 3, eff. September 1, 2019.

This Chapter 57, consisting of Secs. 57.001 to 57.005, was added by Acts 2019, 86th Leg., R.S., Ch. 1161 (H.B. 3222), Sec. 2(a).

See also another Chapter 57, consisting of Secs. 57.01 to 57.09, as added by Acts 2019, 86th Leg., R.S., Ch. 441 (S.B. 1450), Sec. 3.

Text of chapter effective until September 1, 2021

CHAPTER 57. NONRESIDENT BREWER'S OR NONRESIDENT MANUFACTURER'S AGENT

Text of section effective until September 1, 2021

Sec. 57.001. AUTHORIZED ACTIVITIES. A nonresident brewer's or nonresident manufacturer's agent may:

(1) represent one or more:

(A) nonresident brewers; and

(B) nonresident manufacturers; and

(2) on behalf of a nonresident brewer or nonresident manufacturer whom the agent represents:

(A) perform any activity the nonresident brewer or

nonresident manufacturer whom the agent represents could perform in this state; and

(B) apply for a permit, license, or other authorization required by the commission.

Added by Acts 2019, 86th Leg., R.S., Ch. 1161 (H.B. 3222), Sec. 2(a), eff. September 1, 2019.

Text of section effective until September 1, 2021

Sec. 57.002. RESTRICTION AS TO REPRESENTATION. (a) A nonresident brewer's or nonresident manufacturer's agent may not represent a nonresident brewer or a nonresident manufacturer unless the agent is the primary American source of supply for a product produced by the nonresident brewer or nonresident manufacturer.

(b) In this section, "primary American source of supply" means the nonresident brewer or nonresident manufacturer or the exclusive agent of the nonresident brewer or nonresident manufacturer. To be the "primary American source of supply" the nonresident brewer's or nonresident manufacturer's agent must be the first source, that is, the brewer or manufacturer or the source closest to the brewer or manufacturer, in the channel of commerce from whom the product can be secured by Texas wholesalers and distributors.

Added by Acts 2019, 86th Leg., R.S., Ch. 1161 (H.B. 3222), Sec. 2(a), eff. September 1, 2019.

Text of section effective until September 1, 2021

Sec. 57.003. AUTHORIZATION BY NONRESIDENT BREWER OR NONRESIDENT MANUFACTURER REQUIRED. A nonresident brewer's or nonresident manufacturer's agent must be authorized to act as the agent of a nonresident brewer or nonresident manufacturer the person proposes to represent.

Added by Acts 2019, 86th Leg., R.S., Ch. 1161 (H.B. 3222), Sec. 2(a), eff. September 1, 2019.

Text of section effective until September 1, 2021

Sec. 57.004. TERRITORIAL AGREEMENT NOT AFFECTED. Nothing in this chapter affects a territorial agreement entered into under Subchapter C, Chapter 102.

Added by Acts 2019, 86th Leg., R.S., Ch. 1161 (H.B. 3222), Sec. 2(a), eff. September 1, 2019.

Text of section effective until September 1, 2021

Sec. 57.005. RESPONSIBILITY FOR AGENT'S ACTIONS. A nonresident brewer or nonresident manufacturer is responsible for any action taken by a nonresident brewer's or nonresident manufacturer's agent in the course of the agent's representation of the nonresident brewer or nonresident manufacturer under this chapter to the same extent and in the same manner as if the action had been taken by the nonresident brewer or nonresident manufacturer.

Added by Acts 2019, 86th Leg., R.S., Ch. 1161 (H.B. 3222), Sec. 2(a), eff. September 1, 2019.

This Chapter 57, consisting of Secs. 57.001 to 57.005, was added by Acts 2019, 86th Leg., R.S., Ch. 1161 (H.B. 3222), Sec. 2(b).

See also another Chapter 57, consisting of Secs. 57.01 to 57.09, as added by Acts 2019, 86th Leg., R.S., Ch. 441 (S.B. 1450), Sec. 3.

Text of chapter effective on September 1, 2021

CHAPTER 57. NONRESIDENT BREWER'S AGENT

Text of section effective on September 1, 2021

Sec. 57.001. AUTHORIZED ACTIVITIES. A nonresident brewer's agent may:

(1) represent one or more nonresident brewers; and

(2) on behalf of a nonresident brewer whom the agent represents:

(A) perform any activity the nonresident brewer whom the agent represents could perform in this state; and

(B) apply for a permit, license, or other authorization required by the commission.

Added by Acts 2019, 86th Leg., R.S., Ch. 1161 (H.B. 3222), Sec. 2(b),

eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 57.002. RESTRICTION AS TO REPRESENTATION. (a) A nonresident brewer's agent may not represent a nonresident brewer unless the agent is the primary American source of supply for a product produced by the nonresident brewer.

(b) In this section, "primary American source of supply" means the nonresident brewer or the exclusive agent of the nonresident brewer. To be the "primary American source of supply" the nonresident brewer's agent must be the first source, that is, the brewer or the source closest to the brewer, in the channel of commerce from whom the product can be secured by Texas distributors.

Added by Acts 2019, 86th Leg., R.S., Ch. 1161 (H.B. 3222), Sec. 2(b), eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 57.003. AUTHORIZATION BY NONRESIDENT BREWER REQUIRED. A nonresident brewer's agent must be authorized to act as the agent of a nonresident brewer the person proposes to represent.

Added by Acts 2019, 86th Leg., R.S., Ch. 1161 (H.B. 3222), Sec. 2(b), eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 57.004. TERRITORIAL AGREEMENT NOT AFFECTED. Nothing in this chapter affects a territorial agreement entered into under Subchapter C, Chapter 102.

Added by Acts 2019, 86th Leg., R.S., Ch. 1161 (H.B. 3222), Sec. 2(b), eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 57.005. RESPONSIBILITY FOR AGENT'S ACTIONS. A nonresident

brewer is responsible for any action taken by a nonresident brewer's agent in the course of the agent's representation of the nonresident brewer under this chapter to the same extent and in the same manner as if the action had been taken by the nonresident brewer.

Added by Acts 2019, 86th Leg., R.S., Ch. 1161 (H.B. 3222), Sec. 2(b), eff. September 1, 2021.

SUBTITLE B. LICENSES
CHAPTER 61. PROVISIONS GENERALLY APPLICABLE TO LICENSES
SUBCHAPTER A. GENERAL PROVISIONS

Text of section effective until September 1, 2021

Sec. 61.01. LICENSE REQUIRED. No person may manufacture or brew beer for the purpose of sale, import it into this state, distribute or sell it, or possess it for the purpose of sale without having first obtained an appropriate license or permit as provided in this code. Each licensee shall display his license at all times in a conspicuous place at the licensed place of business.

Acts 1977, 65th Leg., p. 460, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 163, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 61.01. LICENSE REQUIRED. A person may not brew malt beverages for the purpose of sale, import malt beverages into this state, distribute or sell malt beverages, or possess malt beverages for the purpose of sale without having first obtained an appropriate license or permit as provided in this code. Each licensee shall display the license at all times in a conspicuous place at the licensed place of business.

Acts 1977, 65th Leg., p. 460, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 163, eff. September 1, 2021.

Sec. 61.02. NATURE OF LICENSE; SUCCESSION ON DEATH, BANKRUPTCY, ETC. (a) A license issued under this code is a purely personal privilege and is subject to revocation as provided in this code. It is not property, is not subject to execution, does not pass by descent or distribution, and ceases on the death of the holder.

(b) On the death of the licensee or of a person having an interest in the license, or on bankruptcy, receivership, or partnership dissolution, the receiver or successor in interest may apply to the county judge of the county where the licensed premises are located for certification that he is the receiver or successor in interest. On certification, unless good cause for refusal is shown, the commission or administrator shall grant permission, by letter or otherwise, for the receiver or successor in interest to operate the business during the unexpired portion of the license. The license may not be renewed, but the receiver or successor in interest may apply for an original license. A receiver or successor in interest operating for the unexpired portion of the license is subject to the provisions of this code relating to the suspension or cancellation of a license.

Acts 1977, 65th Leg., p. 460, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 61.03. EXPIRATION OR SUSPENSION OF LICENSE.

Text of subsection effective until September 1, 2021

(a) Except as provided by Subsections (d) and (e) or another provision of this code, any license except a branch, importer's, importer's carrier's, or temporary license expires on the second anniversary of the date on which it is issued. Notwithstanding Section 5.50(b), the commission shall require double the amount of fees and surcharges otherwise applicable under this code for a license with a two-year term.

Text of subsection effective on September 1, 2021

(a) Except as provided by Subsections (d) and (e) or another provision of this code, any license except a branch license expires on the second anniversary of the date on which it is issued.

Text of subsection effective until September 1, 2021

(b) A secondary license which requires the holder of the

license to first obtain another license, including a late hours license or temporary license, expires on the same date the basic or primary license expires. The commission may not prorate or refund any part of the fee for the secondary license if the application of this section results in the expiration of the license in less than two years.

Text of subsection effective on September 1, 2021

(b) A secondary license or certificate which requires the holder of the license or certificate to first obtain another license, including a retailer late hours certificate, expires on the same date the basic or primary license expires. The commission may not prorate or refund any part of the fee for the secondary license or certificate if the application of this section results in the expiration of the license in less than two years.

(c) An action by the commission resulting in the suspension of a basic or primary license also acts to suspend any secondary license held by the holder of the basic or primary license.

(d) The commission by rule may require that the expiration date for an individual license holder's license is the first anniversary of the date on which the license is issued due to the license holder's violation history.

(e) The commission may issue a license with an expiration date less than two years after the date the license is issued in order to maintain a reasonable annual distribution of renewal application review work and license fees. If the commission issues a license with an expiration date less than two years after the date the license is issued, the commission shall prorate the license fee on a monthly basis so that the license holder pays only that portion of the license fee that is allocable to the number of months during which the license is valid.

Acts 1977, 65th Leg., p. 461, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1999, 76th Leg., ch. 517, Sec. 3, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 986 (S.B. 1217), Sec. 5, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 164, eff. September 1, 2021.

Sec. 61.031. NOTIFICATION OF EXPIRED OR SUSPENDED LICENSE. (a) The commission shall verify that the holder of an expired or suspended retail license is not operating in violation of this code. The verification, including any inspection of the premises by commission personnel, must occur within a reasonable time after the date the license expires or is suspended.

(b) The commission shall promptly notify each wholesaler, as that term is ordinarily used and understood in Section 102.01, who regularly supplies retailers in the geographic area that the holder's retail license has expired or has been suspended.

Added by Acts 1999, 76th Leg., ch. 517, Sec. 4, eff. Sept. 1, 1999.

Sec. 61.04. LICENSE NOT ASSIGNABLE. No holder of a license may assign his license to another person.

Acts 1977, 65th Leg., p. 461, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 61.05. NAME OF BUSINESS. No person may conduct a business engaged in the manufacture, distribution, importation, or sale of beer as owner or part owner except under the name to which the license covering his place of business is issued.

Acts 1977, 65th Leg., p. 461, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 165, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 61.05. NAME OF BUSINESS. A person may not conduct a business engaged in the brewing, distribution, importation, or sale of malt beverages as owner or part owner except under the name to which the license covering the person's place of business is issued.

Acts 1977, 65th Leg., p. 461, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 165, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 61.06. PRIVILEGES LIMITED TO LICENSED PREMISES; DELIVERIES. No person licensed to sell beer, except a manufacturer or distributor, may use or display a license or exercise a privilege granted by the license except at the licensed premises. Deliveries of beer and collections may be made off the licensed premises in areas where the sale of beer is legal inside the county where the license is issued, but only in response to orders placed by the customer in person at the licensed premises or by mail or telephone to the licensed premises.

Acts 1977, 65th Leg., p. 461, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 166, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 61.06. PRIVILEGES LIMITED TO LICENSED PREMISES; DELIVERIES. A person licensed to sell malt beverages, other than a brewer or distributor, may not use or display a license or exercise a privilege granted by the license except at the licensed premises. Deliveries of malt beverages and collections may be made off the licensed premises in areas where the sale of malt beverages is legal inside the county where the license is issued, but only in response to orders placed by the customer in person at the licensed premises or by mail or telephone to the licensed premises.

Acts 1977, 65th Leg., p. 461, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 166, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 61.07. AGENT FOR SERVICE. Each manufacturer, distributor,

or person shipping or delivering beer into this state shall file a certificate with the secretary of state designating the name, street address, and business of his agent on whom process may be served. If a certificate is not filed, service may be had on the secretary of state in any cause of action arising out of a violation of this code, and the secretary of state shall send any citation served on him by registered mail, return receipt requested, to the person for whom the citation is intended. The receipt is prima facie evidence of service on the person.

Acts 1977, 65th Leg., p. 461, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 167, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 61.07. AGENT FOR SERVICE. Each brewer, distributor, or person shipping or delivering malt beverages into this state shall file a certificate with the secretary of state designating the name, street address, and business of the person's agent on whom process may be served. If a certificate is not filed, service may be had on the secretary of state in any cause of action arising out of a violation of this code, and the secretary of state shall send any citation served on the secretary by registered mail, return receipt requested, to the person for whom the citation is intended. The receipt is prima facie evidence of service on the person.

Acts 1977, 65th Leg., p. 461, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 167, eff. September 1, 2021.

Sec. 61.08. STATEMENT OF STOCK OWNERSHIP. The commission at any time may require an officer of a corporation holding a license to file a sworn statement showing the actual owners of the stock of the corporation, the amount of stock owned by each, the officers of the corporation, and any information concerning the qualifications of the officers or stockholders.

Acts 1977, 65th Leg., p. 461, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 61.09. CHANGE OF LOCATION. If a licensee desires to change the licensee's place of business, the licensee may do so by applying to the commission on a form prescribed by the commission and obtaining the commission's consent. The application may be subject to protest and hearing in the same way as an application for an original license. No additional license fee for the unexpired term of the license shall be required in the case of an application for a change of location.

Acts 1977, 65th Leg., p. 462, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 763 (S.B. 1035), Sec. 1, eff. September 1, 2013.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 168, eff. December 31, 2020.

Sec. 61.10. REPLACEMENT OF LICENSE. If a license is mutilated or destroyed, the commission or administrator may issue another license as a replacement in a manner acceptable to the commission or administrator.

Acts 1977, 65th Leg., p. 462, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 61.11. WARNING SIGN REQUIRED. (a) Each holder of a license who is not otherwise required to display a sign under Section 411.204, Government Code, shall display in a prominent place on the license holder's premises a sign giving notice that it is unlawful for a person to carry a weapon on the premises unless the weapon is a handgun the person is licensed to carry under Subchapter H, Chapter 411, Government Code.

(b) The sign must be at least 6 inches high and 14 inches wide, must appear in contrasting colors, and shall be displayed in a conspicuous manner clearly visible to the public. The commission or administrator may require the holder of the license to also display the sign in a language other than English if it can be observed or determined that a substantial portion of the expected customers speak

the other language as their familiar language.

Acts 1977, 65th Leg., p. 462, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1985, 69th Leg., ch. 689, Sec. 2, eff. Sept. 1, 1985; Acts 1997, 75th Leg., ch. 1261, Sec. 18, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 9.20, eff. Sept. 1, 1999.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1302 (H.B. 3142), Sec. 3, eff. June 14, 2013.
Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 3, eff. January 1, 2016.

Sec. 61.111. HEALTH RISKS WARNING SIGN.

Text of subsection effective until September 1, 2021

(a) The commission by rule shall require the holder of a license authorizing the sale of beer for on-premises consumption to display a warning sign on the door to each restroom on the licensed premises that informs the public of the risks of drinking alcohol during pregnancy.

Text of subsection effective on September 1, 2021

(a) The commission by rule shall require the holder of a license authorizing the sale of malt beverages for on-premises consumption to display a warning sign on the door to each restroom on the licensed premises that informs the public of the risks of drinking alcohol during pregnancy.

(b) The commission's rules shall specify the language of the warning and the size and graphic design of the sign, including font size and type.

Added by Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. 904), Sec. 18, eff. September 1, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 169, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 61.12. RESTRICTION ON CONSUMPTION. No licensee except a

holder of a license authorizing on-premises consumption of beer may permit beer to be consumed on the premises where it is sold.

Acts 1977, 65th Leg., p. 462, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 170, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 61.12. RESTRICTION ON CONSUMPTION. A licensee other than a holder of a license authorizing on-premises consumption of malt beverages may not permit malt beverages to be consumed on the premises where they are sold.

Acts 1977, 65th Leg., p. 462, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 170, eff. September 1, 2021.

Sec. 61.13. CONDUCT SURETY BOND. (a) Except as provided in Subsection (e) of this section, an applicant for a license or a holder of a license issued under Chapter 69 of this code shall file with the commission a surety bond in the amount of $5,000 or $10,000 if the applicant for a license or holder of a license has a business located within 1,000 feet of the property line of a public school, conditioned on the applicant's or holder's conformance with alcoholic beverage law.

(b) A surety bond required under this section shall contain the following statements on the face of the bond:

(1) that the holder of the license will not violate a law of the state relating to alcoholic beverages or a rule of the commission; and

(2) that the holder of the license agrees that the amount of the bond shall be paid to the state if the license is revoked or on final adjudication that the holder violated a provision of this code, regardless of whether the actions of an employee of a holder are not attributable to the holder under Section 106.14.

(c) The commission shall adopt rules relating to the:

(1) form of a surety bond;

(2) qualifications for a surety;

(3) method for filing and obtaining approval of the bond by the commission; and

(4) release or discharge of the bond.

(d) A holder of a license required to file a surety bond may furnish instead of all or part of the required bond amount:

(1) one or more certificates of deposit assigned to the state issued by a federally insured bank or savings institution authorized to do business in this state; or

(2) one or more letters of credit issued by a federally insured bank or savings institution authorized to do business in this state.

(e) A holder of a license issued under this code who has held a permit for three years or more before the date the holder applied for renewal of the license is not required to furnish a surety bond if the holder:

(1) has not had a license or permit issued under this code revoked in the five years before the date the holder applied for renewal of the license;

(2) is not the subject of a pending permit or license revocation proceeding; and

(3) has continuously operated on the licensed premises for three years or more before the date the holder applied for renewal of the license.

(f) If a holder of a license is exempt from furnishing a conduct surety bond under Subsection (e) of this section, the holder shall be exempt from furnishing the bond at another location where the holder applies for or holds a license.

(g) Repealed by Acts 1995, 74th Leg., ch. 607, Sec. 3, eff. Sept. 1, 1995.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 48, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 607, Sec. 2, 3, eff. Sept. 1, 1995.

Sec. 61.14. ALTERING FORM OF BUSINESS ENTITY. (a) The holder of a license issued under this chapter, including a food and beverage certificate, may alter the form of the business entity that holds the

license if the ownership of the newly created business entity is identical to the ownership of the former business entity.

(b) Before the 10th day preceding the date the holder of the license converts to a different form of business, the holder of the license shall:

(1) file notice with the commission on a form prescribed by the commission of the change in the form of the business entity; and

(2) pay a $100 fee for each licensed premises affected by the change in form of the business entity.

(c) After satisfying the requirements of Subsection (b) and establishing the newly created business entity, that entity may use the license and exercise any privileges granted by the license.

Added by Acts 1997, 75th Leg., ch. 961, Sec. 2, eff. Sept. 1, 1997.

Sec. 61.15. CERTAIN APPLICATIONS PROHIBITED. Section 11.13 applies to an application for a license under this subtitle.

Added by Acts 2005, 79th Leg., Ch. 452 (S.B. 1850), Sec. 5, eff. September 1, 2005.

Sec. 61.16. UNAUTHORIZED USE OF LICENSE. A licensee may not consent to or allow the use or display of the licensee's license by a person other than the person to whom the license was issued.

Added by Acts 2015, 84th Leg., R.S., Ch. 424 (S.B. 367), Sec. 4, eff. September 1, 2015.

SUBCHAPTER B. APPLICATION AND ISSUANCE OF LICENSES

Text of section effective until September 1, 2021

Sec. 61.31. APPLICATION FOR LICENSE. (a) A person may file an application for a license to manufacture, distribute, store, or sell beer with the commission on forms prescribed by the commission.

(b) On receipt of an application for a license under this code, the commission shall follow the procedure under Section 11.43.

(c) Each applicant for an original license shall pay the annual license fee prescribed by this code.

(d) A person may not sell beer during the pendency of the

person's original license application. An official may not advise a person to the contrary.

Acts 1977, 65th Leg., p. 462, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1997, 75th Leg., ch. 1347, Sec. 2, eff. Sept. 1, 1997.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 763 (S.B. 1035), Sec. 2, eff. September 1, 2013.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 171(a), eff. December 31, 2020.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 171(b), eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 61.31. APPLICATION FOR LICENSE. (a) A person may file an application for a license to manufacture, distribute, store, or sell malt beverages with the commission on forms prescribed by the commission.

(b) On receipt of an application for a license under this code, the commission shall follow the procedure under Section 11.43.

(c) Each applicant for an original license shall pay the license fee authorized by commission rule.

(d) A person may not sell malt beverages during the pendency of the person's original license application. An official may not advise a person to the contrary.

Acts 1977, 65th Leg., p. 462, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1997, 75th Leg., ch. 1347, Sec. 2, eff. Sept. 1, 1997.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 763 (S.B. 1035), Sec. 2, eff. September 1, 2013.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 171(a), eff. December 31, 2020.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 171(b), eff. September 1, 2021.

Sec. 61.313. PROTEST BY MEMBER OF THE PUBLIC. (a) A member of the public may protest an application for:

(1) an original retail dealer's on-premise license if a sexually oriented business is to be operated on the premises to be covered by the license;

(2) any renewal of a retail dealer's on-premise license if a sexually oriented business is to be operated on the premises to be covered by the license and a petition is presented to the commission that is signed by 50 percent of the residents who reside within 300 feet of any property line of the affected premises; or

(3) a license authorizing the retail sale of malt beverages for on-premises consumption if the person resides within 300 feet of any property line of the premises for which the license is sought.

(b) In addition to the situations described by Subsection (a), the commission by rule may authorize a member of the public to protest other license applications the commission considers appropriate.

(c) A protest made under this section must include an allegation of grounds on which the original or renewal application, as applicable, should be denied.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 172, eff. December 31, 2020.

Sec. 61.314. PROTEST BY GOVERNMENT OFFICIAL. (a) The following persons may protest an application for an alcoholic beverage license:

(1) the state senator, state representative, county commissioner, and city council member who represent the area in which the premises sought to be licensed are located;

(2) the commissioners court of the county in which the premises sought to be licensed are located;

(3) the county judge of the county in which the premises sought to be licensed are located;

(4) the sheriff or county or district attorney of the county in which the premises sought to be licensed are located;

(5) the mayor of the city or town in which the premises sought to be licensed are located; and

(6) the chief of police, city marshal, or city attorney of

the city or town in which the premises sought to be permitted are located.

(b) The commission may give due consideration to the recommendations of a person listed under Subsection (a) when evaluating an application for a license under this code.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 172, eff. December 31, 2020.

Sec. 61.34. APPEAL FROM DENIAL.

(a) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 411(a)(12), eff. December 31, 2020.

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 411(a)(12), eff. December 31, 2020.

(c) If a license is issued on the basis of a district court judgment and that judgment is reversed on appeal, the mandate of the appellate court automatically invalidates the license and the applicant is entitled to a proportionate refund of fees for the unexpired portion of the license. As much of the proceeds from license fees collected under this subtitle as is necessary may be appropriated for the payment of those refunds.

(d) A person appealing from an order denying a license shall give bond for all costs incident to the appeal and shall be required to pay those costs if the judgment on appeal is unfavorable to the applicant, but not otherwise. A bond is not required on appeals filed on behalf of the state.

Acts 1977, 65th Leg., p. 463, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 763 (S.B. 1035), Sec. 6, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 173, eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 411(a)(12), eff. December 31, 2020.

Sec. 61.35. LICENSE FEES.

Text of subsection effective until September 1, 2021

(a) A separate license fee is required for each place of business that manufactures, imports, or sells beer.

Text of subsection effective on September 1, 2021

(a) A separate license fee is required for each place of business that brews, imports, or sells malt beverages.

Text of subsection effective until September 1, 2021

(b) All license fees, except those for temporary licenses, shall be deposited as provided in Section 205.02. Each license application must be accompanied by a cashier's check, a teller's check, a check drawn on the account of a corporation applying for a license or on the account of a corporation that is an agent for the person applying for a license, a money order, or payment by credit card, charge card, or other electronic form of payment approved by commission rule for the amount of the state fee, payable to the order of the comptroller.

Text of subsection effective on September 1, 2021

(b) All license fees shall be deposited as provided in Section 205.02. Each license application must be accompanied by a cashier's check, a teller's check, a check drawn on the account of a corporation applying for a license or on the account of a corporation that is an agent for the person applying for a license, a money order, or payment by credit card, charge card, or other electronic form of payment approved by commission rule for the amount of the state fee, payable to the order of the comptroller.

(c) No licensee may obtain a refund on the surrender or nonuse of a license except as provided by this code.

(d) The commissioner may not refund a license fee except when the licensee is prevented from continuing in business by a local option election or when an application for a license is rejected by the commission or administrator. As much of the proceeds from license fees as is necessary may be appropriated for that purpose.

(e) The commission by rule shall establish a method for transmitting five percent of the license fee to the assessor and collector of taxes of the county in which the applicant's business is located.

Acts 1977, 65th Leg., p. 464, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 763 (S.B. 1035), Sec. 7, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 174, eff. September 1, 2021.

Sec. 61.36. LOCAL FEE AUTHORIZED.

Text of subsection effective until September 1, 2021

(a) The governing body of an incorporated city or town may levy and collect a fee not to exceed one-half of the state fee for each license, except a temporary or agent's beer license, issued for premises located within the city or town. The commissioners court of a county may levy and collect a fee equal to one-half the state fee for each license, except a temporary or agent's beer license, issued for premises located within the county. Those authorities may not levy or collect any other fee or tax from the licensee except general ad valorem taxes, the hotel occupancy tax levied under Chapter 351, Tax Code, and the local sales and use tax levied under Chapter 321, Tax Code.

Text of subsection effective on September 1, 2021

(a) The governing body of an incorporated city or town may levy and collect a fee for each license issued for premises located within the city or town. The commissioners court of a county may levy and collect a fee for each license issued for premises located within the county. The fees authorized by this subsection may not exceed one-half the statutory fee provided in this code as of August 31, 2021, for the license issued. Those authorities may not levy or collect any other fee or tax from the licensee except general ad valorem taxes, the hotel occupancy tax levied under Chapter 351, Tax Code, and the local sales and use tax levied under Chapter 321, Tax Code.

(b) The commission or administrator may cancel or suspend a license if it finds the licensee has not paid a fee levied under this section within 180 days after the date the fee was levied. A licensee who sells an alcoholic beverage without first having paid a fee levied under this section commits a misdemeanor punishable by a fine of not less than $10 nor more than $200.

(b-1) A city, town, or county may enter into a contract with a private attorney or a public or private vendor for the collection of

an unpaid license fee levied under this section that is more than 60 days past due. A private attorney or a public or private vendor collecting a fee under this subsection may assess a collection charge to a license holder for late payment or nonpayment of a fee levied under this section.

(b-2) A city, town, or county may enter into an interlocal agreement with another entity authorized to levy a fee under this section for the collection of a license fee that is more than 60 days past due on behalf of the other entity and shall remit the appropriate fees collected to the other entity. The amount collected through an interlocal agreement under this subsection may not exceed the amount of the fee levied by the city, town, or county under this section and any collection charge assessed by a private attorney or a public or private vendor under Subsection (b-1).

(c) Nothing in this code shall be construed as a grant to any political subdivision of the authority to regulate licensees except by collecting the fees authorized in this section and exercising those powers granted to political subdivisions by other provisions of this code.

(d) The commission or administrator may cancel or the commission may deny an application for a license for the retail sale of alcoholic beverages, including a license held by the holder of a food and beverage certificate, if it finds that the license holder or applicant has not paid delinquent ad valorem taxes due on that licensed premises or due from a business operated on that premises to any taxing authority in the county of the premises. For purposes of this subsection, a license holder or applicant is presumed delinquent in the payment of taxes due if the license holder or applicant:

(1) is placed on a delinquent tax roll prepared under Section 33.03, Tax Code;

(2) has received a notice of delinquency under Section 33.04, Tax Code; and

(3) has not made a payment required under Section 42.08, Tax Code.

(e) In this section, "applicant" has the meaning assigned by Section 11.45.

Acts 1977, 65th Leg., p. 464, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.27(a)(3), 14.29(2), eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 377, Sec. 1, eff.

Sept. 1, 1995; Acts 2001, 77th Leg., ch. 289, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 909 (H.B. 3754), Sec. 2, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 175, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 176, eff. December 31, 2020.

Sec. 61.37. CERTIFICATION OF WET OR DRY STATUS. (a) Not later than the 30th day after the date a prospective applicant for a license issued by the commission requests certification, the county clerk of the county in which the request is made shall certify whether the location or address given in the request is in a wet area and whether the sale of alcoholic beverages for which the license is sought is prohibited by any valid order of the commissioners court.

(b) Not later than the 30th day after the date a prospective applicant for a license issued by the commission requests certification, the city secretary or clerk of the city in which the request is made shall certify whether the location or address given in the request is in a wet area and whether the sale of alcoholic beverages for which the license is sought is prohibited by charter or ordinance.

(c) Once a license is issued, the certification that the location or address is in a wet area may not be changed until after a subsequent local option election to prohibit the sale of alcoholic beverages.

(d) Notwithstanding any other provision of this code, if the county clerk, city secretary, or city clerk certifies that the location or address given in the request is not in a wet area or refuses to issue the certification required by this section, the prospective applicant is entitled to a hearing before the county judge to contest the certification or refusal to certify. The prospective applicant must submit a written request to the county judge for a hearing under this subsection. The county judge shall conduct a hearing required by this subsection not later than the 30th day after the date the county judge receives the written request.

Acts 1977, 65th Leg., p. 464, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 2003, 78th Leg., ch. 1047, Sec. 2, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 297 (H.B. 1959), Sec. 2, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 241 (H.B. 1443), Sec. 2, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 177, eff. September 1, 2019.

Sec. 61.38. NOTICE OF APPLICATION.

Text of subsection effective until September 1, 2021

(a) Every original applicant for a license to manufacture, distribute, or sell beer at retail shall give notice of the application by electronic or nonelectronic publication at the applicant's own expense in two consecutive issues of a newspaper of general circulation published in the city or town in which the applicant's place of business is located. If no newspaper is published in that city or town, the notice must be published in a newspaper of general circulation published in the county where the applicant's business is located. If no newspaper is published in that county, the notice must be published in a qualified newspaper published in the closest neighboring county and circulated in the county where the applicant's business is located.

Text of subsection effective on September 1, 2021

(a) Every original applicant for a license to brew, distribute, or sell malt beverages at retail shall give notice of the application by electronic or nonelectronic publication at the applicant's own expense in two consecutive issues of a newspaper of general circulation published in the city or town in which the applicant's place of business is located. If no newspaper is published in that city or town, the notice must be published in a newspaper of general circulation published in the county where the applicant's business is located. If no newspaper is published in that county, the notice must be published in a qualified newspaper published in the closest neighboring county and circulated in the county where the applicant's business is located.

(b) The notice must be printed in 10-point boldface type and must include:

(1) the type of license applied for;

(2) the exact location of the business for which the license is sought;

(3) the name of each owner of the business and, if the business is operated under an assumed name, the trade name together with the name of each owner; and

(4) if the applicant is a corporation, the names and titles of all officers.

(c) An applicant for a renewal license is not required to publish notice.

Acts 1977, 65th Leg., p. 465, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 763 (S.B. 1035), Sec. 8, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. 1090), Sec. 14, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 178, eff. September 1, 2021.

Sec. 61.381. NOTICE BY SIGN. (a) An applicant for a license issued under this code for a location not previously licensed for the on-premises consumption of alcoholic beverages must, not later than the 60th day before the date the license is issued, prominently post an outdoor sign at the location stating that alcoholic beverages are intended to be served on the premises, the type of license, and the name and business address of the applicant.

(b) The sign must be at least 24 by 36 inches in size and must be written in lettering at least two inches in size. The administrator may require the sign to be both in English and a language other than English if it is likely that a substantial number of the residents in the area speak a language other than English as their familiar language. The commission shall provide such sign and may charge a fee therefor.

(c) This section does not apply to an applicant for a license issued under Chapter 64, 66, or 71.

Added by Acts 1985, 69th Leg., ch. 169, Sec. 2, eff. Jan. 1, 1986.

Amended by Acts 1995, 74th Leg., ch. 1028, Sec. 2, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1109, Sec. 2, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 159 (H.B. 1953), Sec. 2, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 179, eff. September 1, 2019.

Sec. 61.382. NOTICE BY MAIL.

Text of subsection effective until September 1, 2021

(a) Except as provided by Subsection (b), a person who submits an original application for a license authorizing the retail sale of beer for on-premises consumption shall give written notice of the application to each residential address and established neighborhood association located within 300 feet of any property line of the premises for which the license is sought.

Text of subsection effective on September 1, 2021

(a) Except as provided by Subsection (b), a person who submits an original application for a license authorizing the retail sale of malt beverages for on-premises consumption shall give written notice of the application to each residential address and established neighborhood association located within 300 feet of any property line of the premises for which the license is sought.

(b) The notice required by Subsection (a) does not apply to an application that contains an application for a food and beverage certificate.

(c) The notice required by this section must be:

(1) delivered by mail at the applicant's expense;

(2) provided in English and a language other than English if it is likely that a substantial number of residents in the area speak a language other than English as their familiar language; and

(3) provided not earlier than the 14th day and not later than the 7th day before the date the application is filed.

(d) The applicant shall submit with an application for a license described by Subsection (a) a list of each residential address provided notice under this section.

(e) The notice must be provided on a form prescribed by the commission and must contain:

(1) the type of license and type of business for which the applicant has applied;

(2) the exact location of the place of business for which the license is sought;

(3) the name of each owner of the business or, if the business is operated under an assumed name, the trade name and the name of each owner;

(4) if the applicant is a corporation, the name and title of each officer; and

(5) a description of the procedure for protesting the application.

Added by Acts 2001, 77th Leg., ch. 868, Sec. 3, eff. Sept. 1, 2001.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 180, eff. September 1, 2021.

Sec. 61.40. PREMISES INELIGIBLE FOR LICENSE. Section 11.44 of this code, which describes certain premises that are ineligible for a license, applies to licenses issued under this subtitle.

Acts 1977, 65th Leg., p. 465, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 61.41. SECOND LICENSE AT SAME LOCATION; EFFECT ON EXISTING LICENSE. (a) Except as provided by Subsection (d), no license may be issued for a premises, location, or place of business for which a license is in effect unless the holder of the existing license has shown to the satisfaction of the commission that the license holder will no longer exercise any privilege granted by the existing license at that location.

(b) If the holder of the existing license desires to transfer the license to another location, the license holder may apply for a transfer of location in accordance with this code.

Text of subsection effective until September 1, 2021

(c) If the holder of the existing license has made a declaration required by the commission that the license holder will no longer use the license, the license holder may not manufacture or sell beer or possess it for the purpose of sale until the license has

been reinstated. The holder may apply to the commission for the reinstatement of the license in the same manner and according to the same procedure as in the case of an original license application. The commission may deny reinstatement of the license for any cause for which an original license application may be denied.

Text of subsection effective on September 1, 2021

(c) If the holder of the existing license has made a declaration required by the commission that the license holder will no longer use the license, the license holder may not brew or sell malt beverages or possess malt beverages for the purpose of sale until the license has been reinstated. The holder may apply to the commission for the reinstatement of the license in the same manner and according to the same procedure as in the case of an original license application. The commission may deny reinstatement of the license for any cause for which an original license application may be denied.

Text of subsection effective until September 1, 2021

(d) Notwithstanding Subsection (a) and Sections 11.49 and 109.53, more than one manufacturer's or nonresident manufacturer's license may be issued for a single premises if the license holder for the premises has contracted with an entity under an alternating brewery proprietorship or contract brewing arrangement.

Text of subsection effective on September 1, 2021

(d) Notwithstanding Subsection (a) and Sections 11.49 and 109.53, more than one brewer's or nonresident brewer's license may be issued for a single premises if the license holder for the premises has contracted with an entity under an alternating brewery proprietorship or contract brewing arrangement.

Acts 1977, 65th Leg., p. 465, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2005, 79th Leg., Ch. 1182 (S.B. 1255), Sec. 4, eff. June 18, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 763 (S.B. 1035), Sec. 9, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1074 (H.B. 3307), Sec. 5, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 181(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 181(b), eff. September 1, 2021.

Sec. 61.42. MANDATORY GROUNDS FOR DENIAL: DISTRIBUTOR OR RETAILER. (a) The commission shall deny an application for a license as a distributor or retailer if the commission has reasonable grounds to believe and finds that:

(1) the applicant is a minor;

(2) the applicant is indebted to the state for any taxes, fees, or penalties imposed by this code or by rule of the commission;

(3) the place or manner in which the applicant for a retail dealer's license may conduct the applicant's business warrants a denial of the application for a license based on the general welfare, health, peace, morals, safety, and sense of decency of the people;

(4) the applicant has developed an incapacity that prevents or could prevent the applicant from conducting the applicant's business with reasonable skill, competence, and safety to the public;

(5) the applicant is not a United States citizen or has not been a citizen of Texas for a period of one year immediately preceding the filing of the applicant's application, unless the applicant was issued an original or renewal license on or before September 1, 1948;

(6) the applicant was finally convicted of a felony during the five years immediately preceding the filing of the applicant's application;

(7) the applicant is not of good moral character or the applicant's reputation for being a peaceable, law-abiding citizen in the community where the applicant resides is bad; or

(8) as to a corporation, it is not incorporated under the laws of this state, or at least 51 percent of the corporate stock is not owned at all times by persons who individually are qualified to obtain a license, except that this subdivision does not apply to a holder of any renewal of a distributor's license which was in effect on January 1, 1953.

(b) The commission shall deny an application for an original retail dealer's or retail dealer's on-premise license unless the applicant for the license files with the application a certificate issued by the comptroller of public accounts stating that the applicant holds, or has applied for and satisfies all legal

requirements for the issuance of, a sales tax permit for the place of business for which the license is sought.

Text of subsection effective until September 1, 2021

(c) The commission shall deny for a period of one year an application for a retail dealer's on-premise license or a wine and beer retailer's permit for a premises where a license or permit has been canceled during the preceding 12 months as a result of a shooting, stabbing, or other violent act, or as a result of an offense involving drugs, prostitution, or trafficking of persons.

Text of subsection effective on September 1, 2021

(c) The commission shall deny for a period of one year an application for a retail dealer's on-premise license or a wine and malt beverage retailer's permit for a premises where a license or permit has been canceled during the preceding 12 months as a result of a shooting, stabbing, or other violent act, or as a result of an offense involving drugs, prostitution, or trafficking of persons.

(d) The commission shall deny an application for a license of a person convicted of an offense under Section 101.76 for a period of five years from the date of the conviction.

Acts 1977, 65th Leg., p. 466, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1967, ch. 777, Sec. 6, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 254, ch. 107, Sec. 4, eff. Sept. 1, 1981; Acts 1985, 69th Leg., ch. 285, Sec. 5, eff. Sept. 1, 1986; Acts 1985, 69th Leg., ch. 462, Sec. 6, eff. Sept. 1, 1986; Acts 1985, 69th Leg., ch. 690, Sec. 2, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 934, Sec. 50, 51, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 625, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 515 (H.B. 2014), Sec. 1.04, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 424 (S.B. 367), Sec. 5, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 182(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 182(b), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 182(c), eff. September 1, 2021.

Sec. 61.421. DENIAL OF LICENSE AUTHORIZING ON-PREMISES CONSUMPTION. (a) In this section, "applicant" has the meaning assigned by Section 11.45.

(b) The commission shall deny an application for an original or renewal license authorizing on-premises consumption of alcoholic beverages if the commission has reasonable grounds to believe and finds that, during the three years preceding the date the license application was filed, a license or permit previously held under this code by the applicant, a person who owns the premises for which the license is sought, or an officer of a person who owns the premises for which the license is sought was canceled or not renewed as a result of a shooting, stabbing, or other violent act.

Text of subsection effective until September 1, 2021

(c) This section does not apply to the issuance of an original or renewal license authorizing on-premises consumption for a location that holds a food and beverage certificate but does not hold a late hours license.

Text of subsection effective on September 1, 2021

(c) This section does not apply to the issuance of an original or renewal license authorizing on-premises consumption for a location that holds a food and beverage certificate but does not hold a retailer late hours certificate.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1303 (H.B. 2707), Sec. 3, eff. June 17, 2011.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 183, eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 184, eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 185, eff. September 1, 2021.

Sec. 61.43. DISCRETIONARY GROUNDS FOR DENIAL: DISTRIBUTOR OR RETAILER. The commission may deny an application for a license as a distributor or retailer if the commission has reasonable grounds to believe and finds that:

(1) the applicant has been finally convicted in a court of competent jurisdiction for the violation of a provision of this code

during the two years immediately preceding the filing of an application;

(2) five years has not elapsed since the termination, by pardon or otherwise, of a sentence imposed for conviction of a felony;

(3) the applicant has violated or caused to be violated a provision of this code or a rule or regulation of the commission, for which a suspension was not imposed, during the 12-month period immediately preceding the filing of an application;

(4) the applicant failed to answer or falsely or incorrectly answered a question in an original or renewal application;

(5) the applicant for a retail dealer's license does not have an adequate building available at the address for which the license is sought before conducting any activity authorized by the license;

(6) the applicant or a person with whom the applicant is residentially domiciled had an interest in a license or permit which was cancelled or revoked within the 12-month period immediately preceding the filing of an application;

(7) the applicant failed or refused to furnish a true copy of the application to the commission's district office in the district in which the premises sought to be licensed are located;

(8) the applicant for a retail dealer's license will conduct business in a manner contrary to law or in a place or manner conducive to a violation of the law; or

(9) the place, building, or premises for which the license is sought was used for selling alcoholic beverages in violation of the law at any time during the six months immediately preceding the filing of the application or was used, operated, or frequented during that time for a purpose or in a manner which was lewd, immoral, offensive to public decency, or contrary to this code.

Acts 1977, 65th Leg., p. 466, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 52, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1068, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 625, Sec. 4, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1026, Sec. 1, eff. June 20, 2003.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 544 (S.B. 371), Sec. 3, eff.

September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 186, eff. December 31, 2020.

Sec. 61.44. DENIAL OF DISTRIBUTOR'S OR RETAILER'S LICENSE: PROHIBITED INTERESTS. (a) The commission may deny an application for a license as a distributor or retailer if the commission has reasonable grounds to believe and finds that:

(1) the applicant has a financial interest in an establishment authorized to sell distilled spirits, except as authorized in Section 22.06, 24.05, or 102.05;

(2) a person engaged in the business of selling distilled spirits has a financial interest in the business to be conducted under the license sought by the applicant, except as authorized in Section 22.06, 24.05, or 102.05; or

(3) the applicant is residentially domiciled with a person who has a financial interest in an establishment engaged in the business of selling distilled spirits, except as authorized in Section 22.06, 24.05, or 102.05.

Text of subsection effective until September 1, 2021

(b) The commission may deny an application for a retail dealer's license if the commission has reasonable grounds to believe and finds that:

(1) the applicant has a real interest in the business or premises of the holder of a manufacturer's or distributor's license; or

(2) the premises sought to be licensed are owned in whole or part by the holder of a manufacturer's or distributor's license.

Text of subsection effective on September 1, 2021

(b) The commission may deny an application for a retail dealer's license if the commission has reasonable grounds to believe and finds that:

(1) the applicant has a real interest in the business or premises of the holder of a brewer's or distributor's license; or

(2) the premises sought to be licensed are owned in whole or part by the holder of a brewer's or distributor's license.

Acts 1977, 65th Leg., p. 467, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 187(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 187(b), eff. September 1, 2021.

Sec. 61.45. DENIAL OF RETAILER'S OR DISTRIBUTOR'S LICENSE: PROHIBITED INTEREST IN PREMISES.

Text of subsection effective until September 1, 2021

(a) The commission may deny an application for a retail dealer's license if the commission has reasonable grounds to believe and finds that:

(1) the applicant owns or has an interest in the premises covered by a manufacturer's or distributor's license; or

(2) the holder of a manufacturer's or distributor's license owns or has an interest in the premises sought to be licensed.

Text of subsection effective on September 1, 2021

(a) The commission may deny an application for a retail dealer's license if the commission has reasonable grounds to believe and finds that:

(1) the applicant owns or has an interest in the premises covered by a brewer's or distributor's license; or

(2) the holder of a brewer's or distributor's license owns or has an interest in the premises sought to be licensed.

(b) The commission may deny an application for a distributor's license if the commission has reasonable grounds to believe and finds that:

(1) the applicant owns or has an interest in the premises covered by a retail dealer's license; or

(2) a holder of a retail dealer's license owns or has an interest in the premises sought to be licensed.

Acts 1977, 65th Leg., p. 467, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 188(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 188(b), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 61.46. MANUFACTURER'S LICENSE: GROUNDS FOR REFUSAL. (a) This section applies to any applicant for a manufacturer's license, including a domestic corporation or foreign corporation qualified to do business in Texas, administrator or executor, or other person. This section does not apply to a holder of a subsequent renewal of a manufacturer's license which was in effect on January 1, 1953.

(b) The commission shall deny an application for a manufacturer's license if the commission has reasonable grounds to believe and finds that the applicant has failed to state under oath that it will engage in the business of brewing and packaging beer in this state within three years after the issuance of its original license in sufficient quantities as to make its operation that of a bona fide brewing manufacturer.

(c) In the case of a corporate applicant, the statement shall be sworn to and subscribed by one of the corporation's principal officers.

Acts 1977, 65th Leg., p. 468, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 189, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 190, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 191(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 191(b), eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 61.46. BREWER'S LICENSE: GROUNDS FOR DENIAL. (a) This section applies to any applicant for a brewer's license, including a domestic corporation or foreign corporation qualified to do business in Texas, administrator or executor, or other person. This section does not apply to a holder of a subsequent renewal of a license which was in effect on January 1, 1953, that authorized the license holder to manufacture a type of malt beverage.

(b) The commission shall deny an application for a brewer's license if the commission has reasonable grounds to believe and finds

that the applicant has failed to state under oath that it will engage in the business of brewing and packaging malt beverages in this state within three years after the issuance of its original license in sufficient quantities as to make its operation that of a bona fide brewer.

(c) In the case of a corporate applicant, the statement shall be sworn to and subscribed by one of the corporation's principal officers.

Acts 1977, 65th Leg., p. 468, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 189, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 190, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 191(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 191(b), eff. September 1, 2021.

Sec. 61.48. RENEWAL APPLICATION. An application to renew a license shall be filed with the commission not earlier than the 30th day before the date the license expires but not after it expires. The application shall be signed by the applicant and shall contain complete information required by the commission showing that the applicant is not disqualified from holding a license. The application shall be accompanied by the appropriate license fee. An applicant for a renewal may not be required to pay any fee other than license fees and the filing fee.

Acts 1977, 65th Leg., p. 468, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 763 (S.B. 1035), Sec. 10, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 192, eff. December 31, 2020.

Sec. 61.49. ACTION ON RENEWAL APPLICATION BY COMMISSION; REFUND OF FEE. When the renewal application has been filed in accordance

with Section 61.48, the commission shall follow the procedure under Section 11.43.

Acts 1977, 65th Leg., p. 468, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 763 (S.B. 1035), Sec. 11, eff. September 1, 2013.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 193, eff. December 31, 2020.

Sec. 61.50. RENEWAL OF RETAIL DEALER'S LICENSE: GROUNDS FOR DENIAL. The commission may deny an application for a renewal of a retail dealer's license and require the applicant to make an original application if it is found that circumstances exist which would warrant the denial of an original application under any pertinent provision of this code.

Acts 1977, 65th Leg., p. 468, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 194, eff. December 31, 2020.

Sec. 61.51. PREMISES DEFINED; DESIGNATION OF LICENSED PREMISES. "Premises" is defined in Section 11.49 of this code. The designating of licensed premises by license applicants is also covered by that section.

Acts 1977, 65th Leg., p. 469, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 61.52. ADMINISTRATIVE PENALTY IN CERTAIN COUNTIES. Section 11.321 applies to an original or renewal application for a retail dealer's on-premise license, other than a license with a food and beverage certificate, for an establishment located in a county with a population of 1.4 million or more.

Added by Acts 2005, 79th Leg., Ch. 452 (S.B. 1850), Sec. 6, eff. September 1, 2005.

SUBCHAPTER C. CANCELLATION AND SUSPENSION OF LICENSES

Sec. 61.71. GROUNDS FOR CANCELLATION OR SUSPENSION: RETAIL DEALER.

Text of subsection effective until September 1, 2021

(a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, that the licensee:

(1) violated a provision of this code or a rule of the commission during the existence of the license sought to be cancelled or suspended or during the immediately preceding license period;

(2) was finally convicted for violating a penal provision of this code;

(3) was finally convicted of a felony while holding an original or renewal license;

(4) made a false statement or a misrepresentation in the licensee's original application or a renewal application;

(5) with criminal negligence sold, served, or delivered an alcoholic beverage to a minor;

(6) sold, served, or delivered an alcoholic beverage to an intoxicated person;

(7) sold, served, or delivered an alcoholic beverage at a time when its sale is prohibited;

(8) entered or offered to enter an agreement, condition, or system which would constitute the sale or possession of alcoholic beverages on consignment;

(9) possessed on the licensed premises, or on adjacent premises directly or indirectly under the licensee's control, an alcoholic beverage not authorized to be sold on the licensed premises, or permitted an agent, servant, or employee to do so, except as permitted by Section 22.06, 24.05, or 102.05;

(10) permitted a person on the licensed premises to engage in conduct which is lewd, immoral, or offensive to public decency;

(11) employed a person under 18 years of age to sell, handle, or dispense beer, or to assist in doing so, in an establishment where beer is sold for on-premises consumption;

(12) conspired with a person to violate Section 101.41-101.43, 101.68, 102.11-102.15, 104.04, 108.01, or 108.04-108.06, or a rule promulgated under Section 5.40, or accepted a benefit from an

act prohibited by any of these sections or rules;

(13) refused to permit or interfered with an inspection of the licensed premises by an authorized representative of the commission or a peace officer;

(14) permitted the use or display of the licensee's license in the conduct of a business for the benefit of a person not authorized by law to have an interest in the license;

(15) maintained blinds or barriers at the licensee's place of business in violation of this code;

(16) conducted the licensee's business in a place or manner which warrants the cancellation or suspension of the license based on the general welfare, health, peace, morals, safety, and sense of decency of the people;

(17) consumed an alcoholic beverage or permitted one to be consumed on the licensed premises at a time when the consumption of alcoholic beverages is prohibited by this code;

(18) purchased beer for the purpose of resale from a person other than the holder of a manufacturer's or distributor's license;

(19) acquired an alcoholic beverage for the purpose of resale from another retail dealer of alcoholic beverages;

(20) owned an interest of any kind in the business or premises of the holder of a distributor's license;

(21) purchased, sold, offered for sale, distributed, or delivered an alcoholic beverage, or consumed an alcoholic beverage or permitted one to be consumed on the licensed premises while the licensee's license was under suspension;

(22) purchased, possessed, stored, sold, or offered for sale beer in or from an original package bearing a brand or trade name of a manufacturer other than the brand or trade name shown on the container;

(23) has developed an incapacity that prevents or could prevent the license holder from managing the license holder's establishment with reasonable skill, competence, and safety to the public;

(24) imported beer into this state except as authorized by Section 107.07;

(25) occupied premises in which the holder of a manufacturer's or distributor's license had an interest of any kind;

(26) knowingly permitted a person who had an interest in a permit or license which was cancelled for cause to sell, handle, or

assist in selling or handling alcoholic beverages on the licensed premises within one year after the cancellation;

(27) was financially interested in a place of business engaged in the selling of distilled spirits or permitted a person having an interest in that type of business to have a financial interest in the business authorized by the licensee's license, except as permitted by Section 22.06, 24.05, or 102.05;

(28) is residentially domiciled with or related to a person engaged in selling distilled spirits, except as permitted by Section 22.06, 24.05, or 102.05, so that there is a community of interests which the commission or administrator finds contrary to the purposes of this code;

(29) is residentially domiciled with or related to a person whose license has been cancelled within the preceding 12 months so that there is a community of interests which the commission or administrator finds contrary to the purposes of this code; or

(30) failed to promptly report to the commission a breach of the peace occurring on the licensee's licensed premises.

Text of subsection effective on September 1, 2021

(a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, that the licensee:

(1) violated a provision of this code or a rule of the commission during the existence of the license sought to be cancelled or suspended or during the immediately preceding license period;

(2) was finally convicted for violating a penal provision of this code;

(3) was finally convicted of a felony while holding an original or renewal license;

(4) made a false statement or a misrepresentation in the licensee's original application or a renewal application;

(5) with criminal negligence sold, served, or delivered an alcoholic beverage to a minor;

(6) sold, served, or delivered an alcoholic beverage to an intoxicated person;

(7) sold, served, or delivered an alcoholic beverage at a time when its sale is prohibited;

(8) entered or offered to enter an agreement, condition, or system which would constitute the sale or possession of alcoholic

beverages on consignment;

(9) possessed on the licensed premises, or on adjacent premises directly or indirectly under the licensee's control, an alcoholic beverage not authorized to be sold on the licensed premises, or permitted an agent, servant, or employee to do so, except as permitted by Section 22.06, 24.05, or 102.05;

(10) permitted a person on the licensed premises to engage in conduct which is lewd, immoral, or offensive to public decency;

(11) employed a person under 18 years of age to sell, handle, or dispense malt beverages, or to assist in doing so, in an establishment where malt beverages are sold for on-premises consumption;

(12) conspired with a person to violate Section 101.41-101.43, 101.68, 102.11-102.15, 104.04, 108.01, or 108.04-108.06, or a rule promulgated under Section 5.40, or accepted a benefit from an act prohibited by any of these sections or rules;

(13) refused to permit or interfered with an inspection of the licensed premises by an authorized representative of the commission or a peace officer;

(14) permitted the use or display of the licensee's license in the conduct of a business for the benefit of a person not authorized by law to have an interest in the license;

(15) maintained blinds or barriers at the licensee's place of business in violation of this code;

(16) conducted the licensee's business in a place or manner which warrants the cancellation or suspension of the license based on the general welfare, health, peace, morals, safety, and sense of decency of the people;

(17) consumed an alcoholic beverage or permitted one to be consumed on the licensed premises at a time when the consumption of alcoholic beverages is prohibited by this code;

(18) purchased malt beverages for the purpose of resale from a person other than the holder of a brewer's or distributor's license;

(19) acquired an alcoholic beverage for the purpose of resale from another retail dealer of alcoholic beverages;

(20) owned an interest of any kind in the business or premises of the holder of a distributor's license;

(21) purchased, sold, offered for sale, distributed, or delivered an alcoholic beverage, or consumed an alcoholic beverage or

permitted one to be consumed on the licensed premises while the licensee's license was under suspension;

(22) purchased, possessed, stored, sold, or offered for sale malt beverages in or from an original package bearing a brand or trade name of a manufacturer other than the brand or trade name shown on the container;

(23) has developed an incapacity that prevents or could prevent the license holder from managing the license holder's establishment with reasonable skill, competence, and safety to the public;

(24) imported malt beverages into this state except as authorized by Section 107.07;

(25) occupied premises in which the holder of a brewer's or distributor's license had an interest of any kind;

(26) knowingly permitted a person who had an interest in a permit or license which was cancelled for cause to sell, handle, or assist in selling or handling alcoholic beverages on the licensed premises within one year after the cancellation;

(27) was financially interested in a place of business engaged in the selling of distilled spirits or permitted a person having an interest in that type of business to have a financial interest in the business authorized by the licensee's license, except as permitted by Section 22.06, 24.05, or 102.05;

(28) is residentially domiciled with or related to a person engaged in selling distilled spirits, except as permitted by Section 22.06, 24.05, or 102.05, so that there is a community of interests which the commission or administrator finds contrary to the purposes of this code;

(29) is residentially domiciled with or related to a person whose license has been cancelled within the preceding 12 months so that there is a community of interests which the commission or administrator finds contrary to the purposes of this code; or

(30) failed to promptly report to the commission a breach of the peace occurring on the licensee's licensed premises.

(b) Subdivisions (9), (27), (28), and (29) of Subsection (a) do not apply to a licensee whose business is located in a hotel in which an establishment authorized to sell distilled spirits in unbroken packages is also located if the licensed premises of the businesses do not coincide or overlap.

(c) The grounds listed in Subsection (a) of this section,

except the ground contained in Subdivision (2), also apply to each member of a partnership or association and, as to a corporation, to the president, manager, and owner of the majority of the corporate stock. This subsection shall not be construed as prohibiting anything permitted by Section 22.06, 24.05, or 102.05 of this code.

(d) The grounds set forth in Subdivisions (1), (4)-(13), (15), (17), (18), (20), (22), and (25) of Subsection (a) also apply to an agent, servant, or employee of the licensee.

(e) The commission or administrator without a hearing may for investigative purposes summarily suspend a retail dealer's on-premise license for not more than seven days if the commission or administrator finds that a shooting, stabbing, or murder has occurred on the licensed premises which is likely to result in a subsequent act of violence. Notice of the order suspending the license shall be given to the licensee personally within 24 hours of the time the violent act occurs. If the licensee cannot be located, notice shall be provided by posting a copy of the order on the front door of the licensed premises.

(f) Except as provided by Subsection (g) or (j), the commission or administrator shall cancel an original or renewal dealer's on-premises or off-premises license if it is found, after notice and hearing, that the licensee knowingly allowed a person to possess a firearm in a building on the licensed premises. This subsection does not apply to a person:

(1) who holds a security officer commission issued under Chapter 1702, Occupations Code, if:

(A) the person is engaged in the performance of the person's duties as a security officer;

(B) the person is wearing a distinctive uniform; and

(C) the weapon is in plain view;

(2) who is a peace officer;

(3) who is a licensee or an employee of a licensee if the person is supervising the operation of the premises; or

(4) who possesses a handgun the person is licensed to carry under Subchapter H, Chapter 411, Government Code, unless the person is on the premises of a business described by Section 46.035(b)(1), Penal Code.

(g) The commission may adopt a rule allowing:

(1) a gun or firearm show on the premises of a license holder, if the premises is owned or leased by a governmental entity

or a nonprofit civic, religious, charitable, fraternal, or veterans' organization;

(2) the holder of a license for the sale of alcoholic beverages for off-premises consumption to also hold a federal firearms license; or

(3) the ceremonial display of firearms on the premises of the license holder.

(h) The length of a suspension must be appropriate for the nature and seriousness of the violation. In determining the length of a suspension, the commission or administrator shall consider:

(1) the type of license or permit held;

(2) the type of violation;

(3) any aggravating or ameliorating circumstances concerning the violation, including those enumerated in Section 11.64(c); and

(4) the permittee's or licensee's previous violations.

(i) The length of a suspension may not be based on:

(1) the volume of alcoholic beverages sold;

(2) the receipts of the business;

(3) the taxes paid; or

(4) the financial condition of the permittee or licensee.

(j) The commission shall adopt rules allowing a historical reenactment on the premises of a license holder. Rules adopted under this subsection must prohibit the use of live ammunition in a historical reenactment.

(k) A hearing under Subsection (a) must be concluded not later than the 60th day after the date notice is provided under that subsection. The provisions of this subsection may not be waived by the license holder or the commission. This subsection applies only to a hearing in connection with a retail dealer's on-premise license, other than a license held with a food and beverage certificate, for premises located in a county with a population of 1.4 million or more.

(l) Section 11.61(b-1) applies to a retail dealer's on-premise license, other than a license held with a food and beverage certificate, for premises located in a county with a population of 1.4 million or more.

Acts 1977, 65th Leg., p. 469, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 254, ch. 107, Sec. 5, eff. Sept.

1, 1981; Acts 1985, 69th Leg., ch. 285, Sec. 6, eff. Sept. 1, 1986; Acts 1985, 69th Leg., ch. 462, Sec. 1, eff. Aug. 26, 1985, Sec. 7, eff. Sept. 1, 1986; Acts 1985, 69th Leg., ch. 687, Sec. 2, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 437, Sec. 2, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 934, Sec. 53, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 998, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1001, Sec. 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1138, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1261, Sec. 19, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 9.21, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 14.726, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1026, Sec. 2, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1223, Sec. 4, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 452 (S.B. 1850), Sec. 7, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 976 (H.B. 1813), Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(4), eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1302 (H.B. 3142), Sec. 4, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 4, eff. January 1, 2016.

Acts 2017, 85th Leg., R.S., Ch. 544 (S.B. 371), Sec. 4, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 195(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 195(b), eff. September 1, 2021.

Sec. 61.711. RETAIL DEALER: CONVICTION OF OFFENSE RELATING TO DISCRIMINATION. The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found after notice and hearing that:

(1) the licensee has been finally convicted of any offense under a state or federal law or a municipal ordinance prohibiting the violation of an individual's civil rights or the discrimination

against an individual on the basis of the individual's race, color, creed, or national origin; and

(2) the offense was committed on the licensed premises or in connection with the operation of the licensee's business.

Added by Acts 1979, 66th Leg., p. 1441, ch. 632, Sec. 2, eff. Aug. 27, 1979.

Sec. 61.712. GROUNDS FOR CANCELLATION OR SUSPENSION: SALES TAX. The commission may deny an application for a renewal license or, after notice and hearing, the commission or administrator may suspend for not more than 60 days or cancel a license if the commission or administrator finds that the licensee:

(1) no longer holds a sales tax permit, if required, for the place of business covered by the license; or

(2) is shown on the records of the comptroller of public accounts as being subject to a final determination of taxes due and payable under the Limited Sales, Excise and Use Tax Act (Chapter 151, Tax Code), or is shown on the records of the comptroller of public accounts as being subject to a final determination of taxes due and payable under Chapter 321, Tax Code.

Added by Acts 1979, 66th Leg., p. 1968, ch. 777, Sec. 7(a), eff. Aug. 27, 1979. Amended by Acts 1981, 67th Leg., p. 1779, ch. 389, Sec. 32, eff. Jan. 1, 1982; Acts 1989, 71st Leg., ch. 2, Sec. 14.27(a)(4), eff. Aug. 28, 1989.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 196, eff. December 31, 2020.

Sec. 61.713. CANCELLATION FOR IMPROPER DISPLAY OR USE OF LICENSE. Notwithstanding Section 61.76 or 61.761, the commission or administrator shall cancel an original or renewal license if it is found, after notice and hearing, that the licensee was convicted of an offense under Section 101.76.

Added by Acts 2015, 84th Leg., R.S., Ch. 424 (S.B. 367), Sec. 6, eff. September 1, 2015.

Sec. 61.72. SUSPENSION OR CANCELLATION: RETAILER: PREMISES. Except for a violation of the credit or cash law, a penalty of suspension or cancellation of the license of a retail dealer shall be assessed against the license for the premises where the offense was committed.

Acts 1977, 65th Leg., p. 471, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 61.721. CANCELLATION OF PERMIT OR LICENSE IN CERTAIN MUNICIPALITIES. The commission or administrator may cancel an original or a renewal wine and beer retailer's permit or retail dealer's on-premise license and the commission may deny an application for any new alcoholic beverage permit or license for the same premises for one year after the date of cancellation if:

(1) the chief of police of the city or the sheriff of the county in which the premises are located has submitted a sworn statement to the commission stating specific allegations that the place or manner in which the permittee or licensee conducts its business endangers the general welfare, health, peace, morals, or safety of the community and further stating that there is a reasonable likelihood that such conduct would continue at the same location under another licensee or permittee; and

(2) the commission finds, after notice and hearing within the county where the premises are located, that the place or manner in which the permittee or licensee conducts its business does in fact endanger the general welfare, health, peace, morals, or safety of the community and that there is a reasonable likelihood that such conduct would continue at the same location under another licensee or permittee.

Added by Acts 1993, 73rd Leg., ch. 139, Sec. 1, eff. May 16, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 197(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 197(b), eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 61.721. CANCELLATION OF PERMIT OR LICENSE IN CERTAIN MUNICIPALITIES. The commission or administrator may cancel an original or a renewal wine and malt beverage retailer's permit or retail dealer's on-premise license and the commission may deny an application for any new alcoholic beverage permit or license for the same premises for one year after the date of cancellation if:

(1) the chief of police of the city or the sheriff of the county in which the premises are located has submitted a sworn statement to the commission stating specific allegations that the place or manner in which the permittee or licensee conducts its business endangers the general welfare, health, peace, morals, or safety of the community and further stating that there is a reasonable likelihood that such conduct would continue at the same location under another licensee or permittee; and

(2) the commission finds, after notice and hearing within the county where the premises are located, that the place or manner in which the permittee or licensee conducts its business does in fact endanger the general welfare, health, peace, morals, or safety of the community and that there is a reasonable likelihood that such conduct would continue at the same location under another licensee or permittee.

Added by Acts 1993, 73rd Leg., ch. 139, Sec. 1, eff. May 16, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 197(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 197(b), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 61.73. RETAIL DEALER: CREDIT PURCHASE OR DISHONORED CHECK. (a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, that the licensee purchased beer or the containers or original packages in which it is contained or packaged except by cash payment to the seller on or before delivery. No holder of either type of license may use a maneuver, device, subterfuge, or shift by which credit is

accepted, including payment or attempted payment by a postdated check or draft. Credit for the return of unbroken or undamaged containers or original packages previously paid for by the purchaser may be accepted as cash by the seller in an amount not more than the amount originally paid for them by the purchaser.

(b) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, that the licensee gave a check, as maker or endorser, or a draft, as drawer or endorser, as full or partial payment for beer or the containers or packages in which it is contained or packaged, which is dishonored when presented for payment.

Acts 1977, 65th Leg., p. 471, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 198, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 61.73. RETAIL DEALER: CREDIT PURCHASE OR DISHONORED CHECK. (a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, that the licensee purchased malt beverages or the containers or original packages in which they are contained or packaged except by cash payment to the seller on or before delivery. No holder of either type of license may use a maneuver, device, subterfuge, or shift by which credit is accepted, including payment or attempted payment by a postdated check or draft. Credit for the return of unbroken or undamaged containers or original packages previously paid for by the purchaser may be accepted as cash by the seller in an amount not more than the amount originally paid for them by the purchaser.

(b) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, that the licensee gave a check, as maker or endorser, or a draft, as drawer or endorser, as full or partial payment for malt beverages or the containers or packages in which they are contained or packaged, which is dishonored when presented for payment.

Acts 1977, 65th Leg., p. 471, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 198, eff. September 1, 2021.

Sec. 61.74. GROUNDS FOR CANCELLATION OR SUSPENSION: DISTRIBUTOR.

Text of subsection effective until September 1, 2021

(a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal general or branch distributor's license if it is found, after notice and hearing, that the licensee:

(1) violated a provision of this code or a rule of the commission during the existence of the license sought to be cancelled or suspended or during the immediately preceding license period;

(2) was finally convicted for violating a penal provision of this code;

(3) was finally convicted of a felony while holding an original or renewal license;

(4) violated Section 101.41-101.43, 101.68, 102.11-102.15, 104.04, 108.01, or 108.04-108.06, or a rule or regulation promulgated under Section 5.40;

(5) failed to comply with a requirement of the commission relating to the keeping of records or making of reports;

(6) failed to pay any tax due the state on any beer the licensee sold, stored, or transported;

(7) refused to permit or interfered with an inspection of the licensee's premises, vehicles, books, or records by an authorized representative of the commission;

(8) consummated a sale of beer outside the county or counties in which the licensee was authorized to sell beer under the license;

(9) purchased, sold, offered for sale, distributed, or delivered beer while the license was under suspension;

(10) permitted the use of the licensee's license in the operation of a business conducted for the benefit of a person not authorized by law to have an interest in the business;

(11) made a false or misleading representation or statement

in the licensee's original application or a renewal application;

(12) has developed an incapacity that prevents or could prevent the license holder from managing the license holder's establishment with reasonable skill, competence, and safety to the public;

(13) misrepresented any beer sold by the licensee to a retailer or to the public;

(14) with criminal negligence sold or delivered beer to a minor; or

(15) purchased, possessed, stored, sold, or offered for sale beer in an original package bearing a brand or trade name of a manufacturer other than the brand or trade name of the manufacturer shown on the container.

Text of subsection effective on September 1, 2021

(a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal general or branch distributor's license if it is found, after notice and hearing, that the licensee:

(1) violated a provision of this code or a rule of the commission during the existence of the license sought to be cancelled or suspended or during the immediately preceding license period;

(2) was finally convicted for violating a penal provision of this code;

(3) was finally convicted of a felony while holding an original or renewal license;

(4) violated Section 101.41-101.43, 101.68, 102.11-102.15, 104.04, 108.01, or 108.04-108.06, or a rule or regulation promulgated under Section 5.40;

(5) failed to comply with a requirement of the commission relating to the keeping of records or making of reports;

(6) failed to pay any tax due the state on any malt beverages the licensee sold, stored, or transported;

(7) refused to permit or interfered with an inspection of the licensee's premises, vehicles, books, or records by an authorized representative of the commission;

(8) consummated a sale of malt beverages outside the county or counties in which the licensee was authorized to sell malt beverages under the license;

(9) purchased, sold, offered for sale, distributed, or delivered malt beverages while the license was under suspension;

(10) permitted the use of the licensee's license in the operation of a business conducted for the benefit of a person not authorized by law to have an interest in the business;

(11) made a false or misleading representation or statement in the licensee's original application or a renewal application;

(12) has developed an incapacity that prevents or could prevent the license holder from managing the license holder's establishment with reasonable skill, competence, and safety to the public;

(13) misrepresented any malt beverages sold by the licensee to a retailer or to the public;

(14) with criminal negligence sold or delivered malt beverages to a minor; or

(15) purchased, possessed, stored, sold, or offered for sale malt beverages in an original package bearing a brand or trade name of a brewer other than the brand or trade name of the brewer shown on the container.

(b) Each ground specified in Subsection (a) of this section also applies to each member of a partnership or association and, as to a corporation, to the president, manager, and owner of the majority of the corporate stock. The grounds specified in Subdivisions (7)-(9) and (13)-(15) also apply to an agent, servant, or employee of the licensee.

Acts 1977, 65th Leg., p. 471, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1972, ch. 777, Sec. 20, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 256, ch. 107, Sec. 6, eff. Sept. 1, 1981; Acts 1985, 69th Leg., ch. 285, Sec. 7, eff. Sept. 1, 1986; Acts 1985, 69th Leg., ch. 462, Sec. 8, eff. Sept. 1, 1986; Acts 1993, 73rd Leg., ch. 437, Sec. 3, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 934, Sec. 54, eff. Sept. 1, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 199(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 199(b), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 61.75. SUSPENSION OF MANUFACTURER'S LICENSE. If a

manufacturer violates a provision of this code or a rule of the commission, the commission or administrator may order the manufacturer to cease and desist from the violation and may suspend its license, after notice and hearing, until the licensee obeys the order.

Acts 1977, 65th Leg., p. 472, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 200, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 61.75. SUSPENSION OF BREWER'S LICENSE. If a brewer violates a provision of this code or a rule of the commission, the commission or administrator may order the brewer to cease and desist from the violation and may suspend its license, after notice and hearing, until the licensee obeys the order.

Acts 1977, 65th Leg., p. 472, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 200, eff. September 1, 2021.

Sec. 61.76. SUSPENSION INSTEAD OF CANCELLATION. When a cause for the cancellation of a license is prescribed by this code, the commission or administrator has the discretionary authority to suspend the license for not more than 60 days rather than to cancel the license.

Acts 1977, 65th Leg., p. 472, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 61.761. ALTERNATIVES TO SUSPENSION, CANCELLATION. Section 11.64 of this code relates to alternatives to the suspension or cancellation of a license.

Added by Acts 1977, 65th Leg., p. 1183, ch. 453, Sec. 8, eff. Sept. 1, 1977.

Sec. 61.77. CERTAIN ACTS ALSO VIOLATIONS OF CODE. Any act of omission or commission which is a ground for cancellation or suspension of a license under Section 61.71, 61.74, or 61.75 of this code is also a violation of this code, punishable as provided in Section 1.05 of this code, except that the penalty for making a false statement in an application for a license or in a statement, report, or other instrument to be filed with the commission, which is required to be sworn, is provided in Section 101.69 of this code.

Acts 1977, 65th Leg., p. 472, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 61.78. VIOLATOR NOT EXCUSED BY CANCELLATION OR SUSPENSION. The cancellation or suspension of a license does not excuse the violator from the penalties provided in this code.

Acts 1977, 65th Leg., p. 472, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 61.79. NOTICE OF HEARING: DENIAL, CANCELLATION, OR SUSPENSION OF LICENSE. Section 11.63 applies to notice of a hearing for the denial, cancellation, or suspension of a license.

Acts 1977, 65th Leg., p. 473, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 201, eff. December 31, 2020.

Sec. 61.80. HEARING FOR CANCELLATION OR SUSPENSION OF LICENSE. The commission or administrator, on the motion of either, may set a date for a hearing to determine if a license should be cancelled or suspended. The commission or administrator shall set a hearing on the petition of the mayor or chief of police of the city or town in which the licensed premises are located or of the county judge, sheriff, or county attorney of the county in which the licensed premises are located. The commission or administrator shall notify the licensee of the hearing and of his right to appear and show cause why his license should not be cancelled or suspended.

Acts 1977, 65th Leg., p. 473, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 61.81. APPEAL FROM CANCELLATION OR SUSPENSION OF LICENSE. Section 11.67 applies to an appeal from a decision or order of the commission or administrator cancelling or suspending a license.

Acts 1977, 65th Leg., p. 473, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 202, eff. December 31, 2020.

Sec. 61.82. MAY NOT RESTRAIN SUSPENSION ORDER. No suit of any nature may be maintained in a court of this state to restrain the commission or administrator or any other officer from enforcing an order of suspension issued by the commission or administrator.

Acts 1977, 65th Leg., p. 473, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 61.83. CANCELLATION OR SUSPENSION: WHEN EFFECTIVE. The manner in which the suspension or cancellation of a license takes effect is governed by Section 11.65 of this code.

Acts 1977, 65th Leg., p. 473, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 61.84. ACTIVITIES PROHIBITED DURING CANCELLATION OR SUSPENSION.

Text of subsection effective until September 1, 2021

(a) No person whose license is cancelled may sell or offer for sale beer for a period of one year immediately following the cancellation, unless the order of cancellation is superseded pending trial or unless he prevails in a final judgment rendered on an appeal prosecuted in accordance with this code.

Text of subsection effective on September 1, 2021

(a) A person whose license is cancelled may not sell or offer for sale malt beverages for a period of one year immediately following the cancellation, unless the order of cancellation is

superseded pending trial or unless the person prevails in a final judgment rendered on an appeal prosecuted in accordance with this code.

(b) No person may sell or offer for sale an alcoholic beverage which he was authorized to sell under a license after the license has been suspended. If it is established to the satisfaction of the commission or administrator at a hearing that an alcoholic beverage was sold on or from a licensed premise during a period of suspension, the commission or administrator may cancel the license.

Acts 1977, 65th Leg., p. 473, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 203, eff. September 1, 2021.

Sec. 61.85. DISPOSAL OF STOCK ON TERMINATION OF LICENSE.

Text of subsection effective until September 1, 2021

(a) A person whose license is cancelled or forfeited may, within 30 days of the cancellation or forfeiture, make a bulk sale or disposal of any stock of beer on hand at the time of the cancellation or forfeiture.

Text of subsection effective on September 1, 2021

(a) A person whose license is cancelled or forfeited may, within 30 days of the cancellation or forfeiture, make a bulk sale or disposal of any stock of malt beverages on hand at the time of the cancellation or forfeiture.

(b) The authority of the commission to promulgate rules relating to the disposal of beverages in bulk on the suspension or cancellation of a license or on the death, insolvency, or bankruptcy of a licensee is covered by Section 11.69 of this code.

Acts 1977, 65th Leg., p. 473, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 204, eff. September 1, 2021.

Sec. 61.86. DISCIPLINE FOR ACTIONS OF AGENT; RECORDS RETENTION.

(a) The commission or administrator may suspend or revoke the license of a person who is the employer of or represented by an agent as described by Section 73.01 or otherwise discipline the person based on an act or omission of the agent only if an individual employed by the person in a supervisory position:

(1) was directly involved in the act or omission of the agent;

(2) had notice or knowledge of the act or omission; or

(3) failed to take reasonable steps to prevent the act or omission.

(b) The holder of a license who is represented by an agent shall maintain records relating to the agent's activities, including any representation agreement, employment records, or similar documents for not less than four years from the date the record is created.

Added by Acts 1999, 76th Leg., ch. 947, Sec. 2, eff. Sept. 1, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 205, eff. September 1, 2019.

Sec. 61.87. AFFIRMATION OF COMPLIANCE. A person who holds a license under Chapter 64 or 66 may not be subject to an administrative sanction for selling or delivering an alcoholic beverage to a retailer not authorized to purchase and receive the alcoholic beverage if the license holder:

(1) reasonably believes that the retailer is authorized to purchase and receive that type of alcoholic beverage; and

(2) obtains from the retailer at the time of delivery a written affirmation, which may be printed or stamped on a sales invoice evidencing the sale or delivery of alcoholic beverages by the license holder, that the retailer is authorized to purchase and receive the type of alcoholic beverage sold and delivered by the license holder.

Added by Acts 1999, 76th Leg., ch. 577, Sec. 2, eff. Sept. 1, 1999.
Renumbered from Sec. 61.86 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(5), eff. Sept. 1, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 206, eff.

September 1, 2019.

Text of chapter effective until September 1, 2021

Text of chapter effective until September 1, 2021

CHAPTER 62. MANUFACTURER'S LICENSE

Text of section effective until September 1, 2021

Sec. 62.01. AUTHORIZED ACTIVITIES. (a) The holder of a manufacturer's license may:

(1) manufacture or brew beer and distribute and sell it in this state to the holders of general, local, and branch distributor's licenses and to qualified persons outside the state;

(2) dispense beer for consumption on the premises;

(3) bottle and can beer and pack it into containers for resale in this state, regardless of whether the beer is manufactured or brewed in this state or in another state and imported into Texas;

(4) conduct samplings of beer, including tastings, at a retailer's premises; and

(5) enter into an alternating brewery proprietorship or contract brewing arrangement as provided by Section 62.14.

(b) An agent or employee of the holder of a manufacturer's license may open, touch, or pour beer, make a presentation, or answer questions at a sampling event.

Acts 1977, 65th Leg., p. 474, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 53, ch. 33, Sec. 1, eff. Aug. 27, 1979.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1073 (H.B. 2723), Sec. 8, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1074 (H.B. 3307), Sec. 6, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 208, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 62.015. IMPORTATION OF BEER, ALE, AND MALT LIQUOR FOR MANUFACTURE. (a) The holder of a manufacturer's license may:

(1) import for manufacturing purposes:

(A) beer from the holder of a nonresident manufacturer's license; and

(B) ale and malt liquor from a holder of a nonresident brewer's permit; and

(2) mix and blend beer, ale, and malt liquor imported under Subdivision (1) and bottle and sell the resultant product.

(b) The state tax on beer, ale, and malt liquor imported for manufacturing purposes does not accrue until:

(1) the beer, ale, or malt liquor has been used for manufacturing purposes; and

(2) the resultant product has been placed in containers for sale.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 209(a), eff. September 1, 2019.

Text of section effective until September 1, 2021

Sec. 62.02. FEE. (a) Each person who establishes, operates, or maintains one or more licensed manufacturing establishments in this state under the same general management or ownership shall pay an annual state fee as follows:

(1) the fee for the first establishment is $750;

(2) the fee for the second establishment is $1,500;

(3) the fee for the third, fourth, and fifth establishments is $4,275 for each establishment; and

(4) the fee for each establishment in excess of five is $8,400.

(b) For the purposes of this section, two or more establishments are under the same general management or ownership if:

(1) they bottle the same brand of beer or beer brewed by the same manufacturer; or

(2) the persons (regardless of domicile) who establish, operate, or maintain the establishments are controlled or directed by one management or by an association of ultimate management.

Acts 1977, 65th Leg., p. 474, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 1349, ch. 278, Sec. 38, eff. Sept. 1, 1983.

Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(22), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 62.03. STATEMENT OF INTENTION. (a) Except as provided by Section 62.14, each applicant for a manufacturer's license shall file with an application a sworn statement that the applicant will be engaged in the business of brewing and packaging beer in this state in quantities sufficient to make the applicant's operation a bona fide brewing manufacturer within three years of the issuance of the original license. If the applicant is a corporation, the statement must be signed by one of its principal officers. The commission may not approve an application unless it is accompanied by the required sworn statement.

(b) This section does not apply to the holder of a manufacturer's license which was in effect on January 1, 1953.

Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 210(a), eff. December 31, 2020.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 210(b), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 62.04. RENEWAL OF LICENSE DURING PRELIMINARY STAGES OF OPERATION. (a) A renewal of a manufacturer's license may not be denied during the two-year period following the issuance of the original license on the ground that the licensee has not brewed and packaged beer in this state if the licensee is engaged in good faith in constructing a brewing plant on the licensed premises or is engaged in one of the following preparatory stages of construction:

(1) preliminary engineering;

(2) preparing drawings and specifications;

(3) conducting engineering, architectural, or equipment studies; or

(4) preparing for the taking of bids from contractors.

(d) This section does not apply to the holder of a license that

was in effect on January 1, 1953.

(b) During the three-year period following the issuance of a manufacturer's license, as long as the licensee is engaged in construction or in a preliminary stage of construction enumerated in Subsection (a) of this section, the commission shall issue each renewal license to take effect immediately on the expiration of the expiring license and shall not require the licensee to make an original application.

(c) After two years and 11 months has expired following the issuance of an original manufacturer's license, the commission shall not issue a renewal license if it finds that the licensee has not complied with his sworn statement filed with his original application or that he has not begun construction of a plant or initiated any of the preliminary stages of construction enumerated in Subsection (a) unless the commission also finds that the applicant has been prevented from doing so by causes beyond his reasonable control. If the commission finds that the licensee has been prevented from complying by causes beyond his reasonable control, it may grant one additional renewal for the licensee to comply with the terms of his sworn statement. Otherwise, the commission shall deny the renewal application and may not grant a subsequent original application by the licensee for a period of two years following the date of the denial.

Acts 1977, 65th Leg., p. 475, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 211, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 62.05. RECORDS. (a) The holder of a manufacturer's license shall make and keep a record of each day's production or receipt of beer and of every sale of beer, including the name of each purchaser. Each transaction shall be recorded on the day it occurs. The licensee shall make and keep any other records that the commission or administrator requires.

(b) All required records shall be kept available for inspection by the commission or its authorized representative during reasonable office hours for at least two years.

(c) The failure to make or keep a record as required by this section, the making of a false entry in the record, or the failure to make an entry as required by this section is a violation of this code.

Acts 1977, 65th Leg., p. 475, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 212, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 62.06. ISSUANCE OF BREWER'S PERMIT. A holder of a manufacturer's license is entitled to be issued an original or renewal brewer's permit for the same location on application to the commission and payment of the required fee.

Acts 1977, 65th Leg., p. 475, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(a)(15), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 62.07. IMPORTATION OF BEER, ALE, AND MALT LIQUOR. The holder of a manufacturer's license may import beer, ale, and malt liquor into this state in barrels or other containers in accordance with the provisions of this code.

Acts 1977, 65th Leg., p. 476, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 213(a), eff. September 1, 2019.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 213(b), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 62.08. WAREHOUSES; DELIVERY TRUCKS. (a) The holder of a manufacturer's or distributor's license may maintain or engage

necessary warehouses for storage purposes in areas where the sale of beer is lawful and may make deliveries from the warehouses without obtaining licenses for them. The licensee may not import beer from outside the state directly or indirectly to an unlicensed warehouse.

(b) A warehouse or railway car in which orders for the sale of beer are taken or money from the sale of beer is collected is a separate place of business for which a license is required.

(c) A truck operated by a licensed distributor for the sale and delivery of beer to a licensed retail dealer at the dealer's place of business is not a separate place of business for which a license is required.

(d) The commission shall promulgate rules governing the transportation of beer, the sale of which is to be consummated at a licensed retailer's place of business.

(e) The holder of a manufacturer's or distributor's license shall register with the commission each warehouse used by the manufacturer or distributor to store beer. The commission by rule shall determine the information that is required to register a warehouse under this subsection.

Acts 1977, 65th Leg., p. 476, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 53, ch. 33, Sec. 2, eff. Aug. 27, 1979.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 214(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 214(b), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 62.09. BEER FOR EXPORT. Regardless of any other provision of this code, a holder of a manufacturer's license may brew and package malt beverages or import them from outside the state, for shipment out of the state, even though the alcohol content, containers, packages, or labels make the beverages illegal to sell within the state. The licensee may export the beverages out of state or deliver them at his premises for shipment out of the state without being liable for any state tax on beer, ale, or malt liquor sold for resale in the state.

Acts 1977, 65th Leg., p. 476, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 215, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 62.11. CONTINUANCE OF OPERATION AFTER LOCAL OPTION ELECTION. The right of a manufacturer's licensee to continue operation after a prohibitory local option election is covered by Section 251.75 of this code.

Acts 1977, 65th Leg., p. 476, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 216, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 62.122. SALES BY CERTAIN MANUFACTURERS TO CONSUMERS. (a) A manufacturer's licensee whose annual production of beer, together with the annual production of ale by the holder of a brewer's permit at all premises wholly or partly owned, directly or indirectly, by the license holder or an affiliate or subsidiary of the license holder, does not exceed 225,000 barrels may sell beer produced on the manufacturer's premises under the license to ultimate consumers on the manufacturer's premises:

(1) for responsible consumption on the manufacturer's premises; or

(2) subject to Subsection (a-1), for off-premises consumption.

(a-1) Sales to a consumer on the manufacturer's premises for off-premises consumption are limited to 288 fluid ounces of beer and ale combined per calendar day.

(b) The total combined sales of beer to ultimate consumers under this section, together with the sales of ale to ultimate consumers by the holder of a brewer's permit under Section 12.052 at the same premises, may not exceed 5,000 barrels annually.

(c) Subject to Subsections (b), (d), and (e), the holder of a manufacturer's license may sell beer produced on the manufacturer's

premises under the license to ultimate consumers on the manufacturer's premises for responsible consumption on the manufacturer's premises even if the annual production limit prescribed by Subsection (a) is exceeded if:

(1) the license holder:

(A) was legally operating a manufacturing facility with on-premise sales under Subsection (a) on February 1, 2017; or

(B) purchased an ownership interest in, or was purchased by the holder of, a permit or license issued under Chapter 12, 13, 62, or 63; and

(2) the license holder has annual production that does not exceed 175,000 barrels at the manufacturer's premises.

(d) For purposes of Subsection (c)(1)(B), a license holder may not sell to a permit or license holder whose annual production exceeds the limit prescribed by Subsection (a) an ownership interest:

(1) of more than 25 percent in the permitted location; or

(2) that provides the purchaser with the ability to control the operations at the permitted location.

(e) A holder of a manufacturer's license who under Subsection (c) sells beer produced on the manufacturer's premises under the license to ultimate consumers on the manufacturer's premises for responsible consumption on the manufacturer's premises:

(1) shall file a territorial agreement with the commission under Subchapters C and D, Chapter 102;

(2) must purchase any beer the license holder sells on the manufacturer's premises from the holder of a license issued under Chapter 64 or 66; and

(3) with respect to those purchases, must comply with the requirements of this code governing dealings between a distributor or wholesaler and a member of the retail tier, including Sections 61.73 and 102.31.

(e-1) The commission:

(1) may require the holder of a manufacturer's license who sells beer to ultimate consumers under this section to report to the commission each month, in the manner prescribed by the commission, the total amounts of beer sold by the license holder under this section during the preceding month for:

(A) responsible consumption on the manufacturer's premises; and

(B) off-premises consumption, as authorized by

Subsection (a);

(2) by rule shall adopt a simple form for a report required under Subdivision (1); and

(3) shall maintain reports received under this subsection for public review.

(f) The commission by rule or order shall annually adjust the production limit prescribed by Subsection (c)(2) in an amount that is equal to the percentage of the state's population growth for the previous year as determined by the state demographer under Chapter 468, Government Code.

(g) The commission may impose an administrative penalty against a license holder who violates Subsection (a-1) or fails to comply with a requirement established by the commission under Subsection (e-1). The commission shall adopt rules establishing:

(1) the amount of an administrative penalty under this subsection; and

(2) the procedures for imposing an administrative penalty under this subsection.

Added by Acts 2013, 83rd Leg., R.S., Ch. 535 (S.B. 518), Sec. 3, eff. June 14, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1129 (H.B. 3287), Sec. 4, eff. June 15, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 217, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 218(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 218(b), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 62.14. USE OF FACILITIES. (a) The holder of a manufacturer's or nonresident manufacturer's license may contract with the holder of a manufacturer's license:

(1) to provide manufacturing services; or

(2) for the use of the license holder's manufacturing facilities under an alternating brewery proprietorship if each party to the proprietorship:

(A) has filed the appropriate Brewer's Notice and Brewer's Bond as required by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury; and

(B) if applicable, has posted with the commission a bond in an amount determined by the commission under Subsection (d) or (e).

(b) An entity is not required to own its manufacturing facilities if the entity operates under an alternating brewery proprietorship as provided by Subsection (a).

(b-1) Each entity that is a party to an alternating brewery proprietorship or contract brewing arrangement must hold a license at the location where manufacturing services are conducted under the arrangement.

(c) This section does not authorize a person acting as an agent for a manufacturer located outside of this state to contract with the holder of a manufacturer's license to manufacture beer on the person's behalf. A contract described by this subsection may only be entered into by the holder of a manufacturer's license and another person holding a license under this code.

(d) Subject to Subsection (e), the commission by rule may require an entity that is a party to an alternating brewery proprietorship or contract brewing arrangement to post with the commission a bond in an amount determined by the commission not to exceed $200,000.

(e) An entity that is a party to an alternating brewery proprietorship or contract brewing arrangement must post with the commission a bond in an amount determined by the commission of not less than $30,000 if the entity does not own a fee interest in a manufacturing facility.

Added by Acts 2005, 79th Leg., Ch. 1182 (S.B. 1255), Sec. 6, eff. June 18, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1074 (H.B. 3307), Sec. 7, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 219, eff. September 1, 2021.

Text of chapter effective on September 1, 2021

Text of chapter effective on September 1, 2021

CHAPTER 62. BREWER'S LICENSE

Text of section effective on September 1, 2021

Sec. 62.01. AUTHORIZED ACTIVITIES. (a) The holder of a brewer's license may:

(1) brew malt beverages and distribute and sell the malt beverages in this state to the holders of general and branch distributor's licenses and to qualified persons outside the state;

(2) dispense malt beverages for consumption on the premises;

(3) bottle and can malt beverages and pack malt beverages into containers for resale in this state, regardless of whether the malt beverages are brewed in this state or in another state and imported into Texas;

(4) conduct samplings of malt beverages, including tastings, at a retailer's premises; and

(5) enter into an alternating brewery proprietorship or contract brewing arrangement as provided by Section 62.14.

(b) An agent or employee of the holder of a brewer's license may open, touch, or pour malt beverages, make a presentation, or answer questions at a sampling event.

Acts 1977, 65th Leg., p. 474, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 53, ch. 33, Sec. 1, eff. Aug. 27, 1979.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1073 (H.B. 2723), Sec. 8, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1074 (H.B. 3307), Sec. 6, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 208, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 62.015. IMPORTATION OF MALT BEVERAGES FOR MANUFACTURE. (a) The holder of a brewer's license may:

(1) import for manufacturing purposes malt beverages from the holder of a nonresident brewer's license; and

(2) mix and blend malt beverages imported under Subdivision

(1) and bottle and sell the resultant product.

(b) The state tax on malt beverages imported for manufacturing purposes does not accrue until:

(1) the malt beverages have been used for manufacturing purposes; and

(2) the resultant product has been placed in containers for sale.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 209(b), eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 62.03. STATEMENT OF INTENTION. (a) Except as provided by Section 62.14, each applicant for a brewer's license shall file with an application a sworn statement that the applicant will be engaged in the business of brewing and packaging malt beverages in this state in quantities sufficient to make the applicant's operation a bona fide brewer within three years of the issuance of the original license. If the applicant is a corporation, the statement must be signed by one of its principal officers. The commission may not approve an application unless it is accompanied by the required sworn statement.

(b) This section does not apply to the holder of a license which was in effect on January 1, 1953, that authorized the license holder to manufacture a type of malt beverage.

Acts 1977, 65th Leg., p. 474, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2005, 79th Leg., Ch. 1182 (S.B. 1255), Sec. 5, eff. June 18, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 763 (S.B. 1035), Sec. 12, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 210(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 210(b), eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 62.04. RENEWAL OF LICENSE DURING PRELIMINARY STAGES OF OPERATION. (a) A renewal of a brewer's license may not be denied during the two-year period following the issuance of the original license on the ground that the licensee has not brewed and packaged malt beverages in this state if the licensee is engaged in good faith in constructing a brewing plant on the licensed premises or is engaged in one of the following preparatory stages of construction:

(1) preliminary engineering;

(2) preparing drawings and specifications;

(3) conducting engineering, architectural, or equipment studies; or

(4) preparing for the taking of bids from contractors.

(b) During the three-year period following the issuance of a brewer's license, as long as the licensee is engaged in construction or in a preliminary stage of construction enumerated in Subsection (a), the commission shall issue each renewal license to take effect immediately on the expiration of the expiring license and shall not require the licensee to make an original application.

(c) After two years and 11 months has expired following the issuance of an original brewer's license, the commission may not issue a renewal license if it finds that the licensee has not complied with the licensee's sworn statement filed with the original application or that the licensee has not begun construction of a plant or initiated any of the preliminary stages of construction enumerated in Subsection (a) unless the commission also finds that the licensee has been prevented from doing so by causes beyond the licensee's reasonable control. If the commission finds that the licensee has been prevented from complying by causes beyond the licensee's reasonable control, it may grant one additional renewal for the licensee to comply with the terms of the licensee's sworn statement. Otherwise, the commission shall deny the renewal application and may not grant a subsequent original application by the licensee for a period of two years following the date of the denial.

(d) This section does not apply to the holder of a license that was in effect on January 1, 1953.

Acts 1977, 65th Leg., p. 475, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 211, eff.

September 1, 2021.

Text of section effective on September 1, 2021

Sec. 62.05. RECORDS. (a) The holder of a brewer's license shall make and keep a record of each day's production or receipt of malt beverages and of every sale of malt beverages, including the name of each purchaser. Each transaction shall be recorded on the day it occurs. The licensee shall make and keep any other records that the commission or administrator requires.

(b) All required records shall be kept available for inspection by the commission or its authorized representative during reasonable office hours for at least two years.

(c) The failure to make or keep a record as required by this section, the making of a false entry in the record, or the failure to make an entry as required by this section is a violation of this code.

Acts 1977, 65th Leg., p. 475, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 212, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 62.07. IMPORTATION OF MALT BEVERAGES. The holder of a brewer's license may import malt beverages into this state in barrels or other containers in accordance with the provisions of this code.

Acts 1977, 65th Leg., p. 476, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 213(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 213(b), eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 62.08. WAREHOUSES; DELIVERY TRUCKS. (a) The holder of a brewer's or distributor's license may maintain or engage necessary

warehouses for storage purposes in areas where the sale of malt beverages is lawful and may make deliveries from the warehouses without obtaining licenses for them. The licensee may not import malt beverages from outside the state directly or indirectly to an unlicensed warehouse.

(b) A warehouse or railway car in which malt beverages are served, orders for the sale of malt beverages are taken, or money from the sale of malt beverages is collected is a separate place of business for which a license is required.

(c) A truck operated by a licensed distributor for the sale and delivery of malt beverages to a licensed retail dealer at the dealer's place of business is not a separate place of business for which a license is required.

(d) The commission shall promulgate rules governing the transportation of malt beverages, the sale of which is to be consummated at a licensed retailer's place of business.

(e) The holder of a brewer's or distributor's license shall register with the commission each warehouse used by the brewer or distributor to store malt beverages. The commission by rule shall determine the information that is required to register a warehouse under this subsection.

Acts 1977, 65th Leg., p. 476, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 53, ch. 33, Sec. 2, eff. Aug. 27, 1979.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 214(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 214(b), eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 62.09. MALT BEVERAGES FOR EXPORT. Regardless of any other provision of this code, a holder of a brewer's license may brew and package malt beverages or import them from outside the state, for shipment out of the state, even though the alcohol content, containers, packages, or labels make the beverages illegal to sell within the state. The licensee may export the beverages out of state or deliver them at the licensee's premises for shipment out of the

state without being liable for any state tax on malt beverages sold for resale in the state.

Acts 1977, 65th Leg., p. 476, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 215, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 62.11. CONTINUANCE OF OPERATION AFTER LOCAL OPTION ELECTION. The right of a brewer's licensee to continue operation after a prohibitory local option election is covered by Section 251.75.

Acts 1977, 65th Leg., p. 476, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 216, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 62.122. SALES BY CERTAIN BREWERS TO CONSUMERS. (a) A brewer's licensee whose annual production of malt beverages at all premises wholly or partly owned, directly or indirectly, by the license holder or an affiliate or subsidiary of the license holder, does not exceed 225,000 barrels may sell malt beverages produced on the brewer's premises under the license to ultimate consumers on the brewer's premises:

(1) for responsible consumption on the brewer's premises; or

(2) subject to Subsection (a-1), for off-premises consumption.

(a-1) Sales to a consumer on the brewer's premises for off-premises consumption are limited to 288 fluid ounces of malt beverages per calendar day.

(b) The total sales of malt beverages to ultimate consumers under this section at the same premises may not exceed 5,000 barrels annually.

(c) Subject to Subsections (b), (d), and (e), the holder of a

brewer's license may sell malt beverages produced on the brewer's premises under the license to ultimate consumers on the brewer's premises for responsible consumption on the brewer's premises even if the annual production limit prescribed by Subsection (a) is exceeded if:

(1) the license holder:

(A) was legally operating a manufacturing facility with on-premise sales under Subsection (a) on February 1, 2017; or

(B) purchased an ownership interest in, or was purchased by the holder of, a permit or license issued under Chapter 12, 13, 62, or 63; and

(2) the license holder has annual production that does not exceed 175,000 barrels at the brewer's premises.

(d) For purposes of Subsection (c)(1)(B), a license holder may not sell to a permit or license holder whose annual production exceeds the limit prescribed by Subsection (a) an ownership interest:

(1) of more than 25 percent in the permitted location; or

(2) that provides the purchaser with the ability to control the operations at the permitted location.

(e) A holder of a brewer's license who under Subsection (c) sells malt beverages produced on the brewer's premises under the license to ultimate consumers on the brewer's premises for responsible consumption on the brewer's premises:

(1) shall file a territorial agreement with the commission under Subchapters C and D, Chapter 102;

(2) must purchase any malt beverages the license holder sells on the brewer's premises from the holder of a license issued under Chapter 64 or 66; and

(3) with respect to those purchases, must comply with the requirements of this code governing dealings between a distributor and a member of the retail tier, including Sections 61.73 and 102.31.

(e-1) The commission:

(1) may require the holder of a brewer's license who sells malt beverages to ultimate consumers under this section to report to the commission each month, in the manner prescribed by the commission, the total amounts of malt beverages sold by the license holder under this section during the preceding month for:

(A) responsible consumption on the brewer's premises; and

(B) off-premises consumption, as authorized by

Subsection (a);

(2) by rule shall adopt a simple form for a report required under Subdivision (1); and

(3) shall maintain reports received under this subsection for public review.

(f) The commission by rule or order shall annually adjust the production limit prescribed by Subsection (c)(2) in an amount that is equal to the percentage of the state's population growth for the previous year as determined by the state demographer under Chapter 468, Government Code.

(g) The commission may impose an administrative penalty against a license holder who violates Subsection (a-1) or fails to comply with a requirement established by the commission under Subsection (e-1). The commission shall adopt rules establishing:

(1) the amount of an administrative penalty under this subsection; and

(2) the procedures for imposing an administrative penalty under this subsection.

Added by Acts 2013, 83rd Leg., R.S., Ch. 535 (S.B. 518), Sec. 3, eff. June 14, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1129 (H.B. 3287), Sec. 4, eff. June 15, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 217, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 218(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 218(b), eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 62.14. USE OF FACILITIES. (a) The holder of a brewer's or nonresident brewer's license may contract with the holder of a brewer's license:

(1) to provide manufacturing services; or

(2) for the use of the license holder's manufacturing facilities under an alternating brewery proprietorship if each party to the proprietorship:

(A) has filed the appropriate Brewer's Notice and Brewer's Bond as required by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury; and

(B) if applicable, has posted with the commission a bond in an amount determined by the commission under Subsection (d) or (e).

(b) An entity is not required to own its brewing facilities if the entity operates under an alternating brewery proprietorship as provided by Subsection (a).

(b-1) Each entity that is a party to an alternating brewery proprietorship or contract brewing arrangement must hold a license at the location where brewing services are conducted under the arrangement.

(c) This section does not authorize a person acting as an agent for a brewer located outside of this state to contract with the holder of a brewer's license to brew malt beverages on the person's behalf. A contract described by this subsection may only be entered into by the holder of a brewer's license and another person holding a license under this code.

(d) Subject to Subsection (e), the commission by rule may require an entity that is a party to an alternating brewery proprietorship or contract brewing arrangement to post with the commission a bond in an amount determined by the commission not to exceed $200,000.

(e) An entity that is a party to an alternating brewery proprietorship or contract brewing arrangement must post with the commission a bond in an amount determined by the commission of not less than $30,000 if the entity does not own a fee interest in a brewing facility.

Added by Acts 2005, 79th Leg., Ch. 1182 (S.B. 1255), Sec. 6, eff. June 18, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1074 (H.B. 3307), Sec. 7, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 219, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 62.15. IMPORTING MALT BEVERAGES. (a) In this subtitle, "importer" means a person who imports malt beverages into the state in quantities in excess of 288 fluid ounces in any one day.

(b) The holder of a brewer's license may import malt beverages into this state only from the holder of a nonresident brewer's license and may transport those beverages into this state only:

(1) in a motor vehicle that is:

(A) owned or leased in good faith by the license holder; and

(B) printed or painted with the designation required by the commission; or

(2) by a railway carrier or by a motor carrier registered under Chapter 643, Transportation Code, or with the Federal Motor Carrier Safety Administration.

(c) The holder of a brewer's license transporting malt beverages under Subsection (b)(1) shall provide to the commission:

(1) a full description of each motor vehicle used by the license holder for transporting malt beverages; and

(2) any other information the commission requires.

(d) A carrier transporting malt beverages as authorized by Subsection (b)(2) must hold a carrier permit issued under Chapter 41 and the provisions of Chapter 41 relating to the transportation of liquor apply to the transportation of the malt beverages. A carrier may not transport malt beverages into the state unless it is consigned to an importer.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 220, eff. September 1, 2021.

Text of chapter effective until September 1, 2021

Text of chapter effective until September 1, 2021

CHAPTER 62A. MANUFACTURER'S SELF-DISTRIBUTION LICENSE

Text of section effective until September 1, 2021

Sec. 62A.01. ELIGIBILITY FOR LICENSE. A manufacturer's self-distribution license may be issued only to the holder of a manufacturer's license under Chapter 62 or the holder of a nonresident manufacturer's license under Chapter 63.

Added by Acts 2013, 83rd Leg., R.S., Ch. 534 (S.B. 517), Sec. 2, eff.

June 14, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 222, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 62A.02. AUTHORIZED ACTIVITIES. (a) A holder of a manufacturer's self-distribution license whose annual production of beer under the manufacturer's or nonresident manufacturer's license, together with the annual production of ale by the holder of a brewer's or nonresident brewer's permit at all premises owned directly or indirectly by the license holder or an affiliate or subsidiary of the license holder, does not exceed 125,000 barrels may sell beer produced under the manufacturer's or nonresident manufacturer's license to those persons to whom the holder of a general distributor's license may sell beer under Section 64.01(a)(2).

(b) The total combined sales of beer under this section, together with the sales of ale by the holder of a brewer's self-distribution permit under Section 12A.02 at all premises owned directly or indirectly by the license holder or an affiliate or subsidiary of the license holder, may not exceed 40,000 barrels annually.

(c) With regard to a sale under this section, the holder of a manufacturer's self-distribution license has the same authority and is subject to the same requirements that apply to a sale made by the holder of a general distributor's license.

(d) Beer sold under this section may be shipped only from a manufacturing facility in this state.

Added by Acts 2013, 83rd Leg., R.S., Ch. 534 (S.B. 517), Sec. 2, eff. June 14, 2013.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 1129 (H.B. 3287), Sec. 5, eff. June 15, 2017.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 223, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 62A.03. FEE. The annual state fee for a manufacturer's self-distribution license is $250.

Added by Acts 2013, 83rd Leg., R.S., Ch. 534 (S.B. 517), Sec. 2, eff. June 14, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(23), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 62A.04. REPORT OF SALES TO RETAILERS. (a) Not later than the 15th day of each month, the holder of a manufacturer's self-distribution license shall file a report with the commission that contains information relating to the sales made by the license holder to a retailer during the preceding calendar month.

(b) The commission shall by rule determine the information that is required to be reported under this section and the manner in which the report must be submitted to the commission. The commission may require the report to contain the same information reported to the comptroller under Section 151.462, Tax Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 534 (S.B. 517), Sec. 2, eff. June 14, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 224, eff. September 1, 2021.

Text of chapter effective on September 1, 2021

Text of chapter effective on September 1, 2021

CHAPTER 62A. BREWER'S SELF-DISTRIBUTION LICENSE

Text of section effective on September 1, 2021

Sec. 62A.01. ELIGIBILITY FOR LICENSE. A brewer's self-distribution license may be issued only to the holder of a brewer's license under Chapter 62 or the holder of a nonresident brewer's license under Chapter 63.

Added by Acts 2013, 83rd Leg., R.S., Ch. 534 (S.B. 517), Sec. 2, eff. June 14, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 222, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 62A.02. AUTHORIZED ACTIVITIES. (a) A holder of a brewer's self-distribution license whose annual production of malt beverages under the brewer's or nonresident brewer's license at all premises owned directly or indirectly by the license holder or an affiliate or subsidiary of the license holder, does not exceed 125,000 barrels may sell malt beverages produced under the brewer's or nonresident brewer's license to those persons to whom the holder of a general distributor's license may sell malt beverages under Section 64.01(a)(2).

(b) The total sales of malt beverages under this section at all premises owned directly or indirectly by the license holder or an affiliate or subsidiary of the license holder may not exceed 40,000 barrels annually.

(c) With regard to a sale under this section, the holder of a brewer's self-distribution license has the same authority and is subject to the same requirements that apply to a sale made by the holder of a general distributor's license.

(d) Malt beverages sold under this section may be shipped only from a manufacturing facility in this state.

Added by Acts 2013, 83rd Leg., R.S., Ch. 534 (S.B. 517), Sec. 2, eff. June 14, 2013.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 1129 (H.B. 3287), Sec. 5, eff. June 15, 2017.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 223, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 62A.04. REPORT OF SALES TO RETAILERS. (a) Not later than the 15th day of each month, the holder of a brewer's self-

distribution license shall file a report with the commission that contains information relating to the sales made by the license holder to a retailer during the preceding calendar month.

(b) The commission shall by rule determine the information that is required to be reported under this section and the manner in which the report must be submitted to the commission. The commission may require the report to contain the same information reported to the comptroller under Section 151.462, Tax Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 534 (S.B. 517), Sec. 2, eff. June 14, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 224, eff. September 1, 2021.

Text of chapter effective until September 1, 2021

Text of chapter effective until September 1, 2021

CHAPTER 63. NONRESIDENT MANUFACTURER'S LICENSE

Text of section effective until September 1, 2021

Sec. 63.01. AUTHORIZED ACTIVITIES. The holder of a nonresident manufacturer's license may transport beer into Texas only to holders of importer's licenses. The nonresident manufacturer's licensee may transport the beer in carriers or vehicles operated by holders of carrier's permits or in motor vehicles owned or leased by the nonresident manufacturer. The beer must be shipped in barrels or other containers in accordance with the provisions of this code and may not be shipped into the state in tank cars.

Acts 1977, 65th Leg., p. 476, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 1969, ch. 777, Sec. 11, eff. Aug. 27, 1979.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 226, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 63.02. FEE. The annual state fee for a nonresident

manufacturer's license is $750. No county or city is entitled to a fee for the issuance of the license.

Acts 1977, 65th Leg., p. 477, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1350, ch. 278, Sec. 39, eff. Sept. 1, 1983.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(24), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 63.03. LIABILITY FOR TAXES; BOND. The holder of a nonresident manufacturer's license that transports beer into Texas in a motor vehicle owned or leased by him is not primarily responsible for the payment of the taxes on the beer, which remains the responsibility of the holder of the importer's license. However, the nonresident manufacturer shall furnish the commission with a bond in an amount which, in the commission's judgment, will protect the revenue of the state from the tax due on the beer over any six-week period.

Acts 1977, 65th Leg., p. 477, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 227, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 63.04. APPLICATION OF CODE PROVISIONS AND RULES. A holder of a nonresident manufacturer's license is subject to all applicable provisions of this code and all applicable rules of the commission which apply to holders of manufacturer's licenses, including rules relating to the quality, purity, and identity of beer and to protecting the public health. The commission may suspend or cancel a nonresident manufacturer's license and apply penalties in the same manner as it does with respect to a manufacturer's license.

Acts 1977, 65th Leg., p. 477, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 228, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 63.05. USE OF FACILITIES. (a) The holder of a manufacturer's or nonresident manufacturer's license may contract with the holder of a nonresident manufacturer's license:

(1) to provide manufacturing services; or

(2) for the use of the license holder's manufacturing facilities under an alternating brewery proprietorship if each party to the proprietorship:

(A) has filed the appropriate Brewer's Notice and Brewer's Bond as required by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury; and

(B) if applicable, has posted with the commission a bond in an amount determined by the commission under Subsection (d) or (e).

(b) An entity is not required to own its manufacturing facilities if the entity operates under an alternating brewery proprietorship as provided by Subsection (a).

(b-1) Each entity that is a party to an alternating brewery proprietorship or contract brewing arrangement must hold a license at the location where manufacturing services are conducted under the arrangement.

(c) This section does not authorize a person acting as an agent for a manufacturer located outside of this state to contract with the holder of a nonresident manufacturer's license to manufacture beer on the person's behalf. A contract described by this subsection may only be entered into by the holder of a nonresident manufacturer's license and another person holding a license under this code.

(d) Subject to Subsection (e), the commission by rule may require an entity that is a party to an alternating brewery proprietorship or contract brewing arrangement to post with the commission a bond in an amount determined by the commission not to exceed $200,000.

(e) An entity that is a party to an alternating brewery proprietorship or contract brewing arrangement must post with the commission a bond in an amount determined by the commission of not less than $30,000 if the entity does not own a fee interest in a

manufacturing facility.

Added by Acts 2005, 79th Leg., Ch. 1182 (S.B. 1255), Sec. 7, eff. June 18, 2005.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1074 (H.B. 3307), Sec. 8, eff. September 1, 2013.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 229, eff. September 1, 2021.

Text of chapter effective on September 1, 2021

Text of chapter effective on September 1, 2021

CHAPTER 63. NONRESIDENT BREWER'S LICENSE

Text of section effective on September 1, 2021

Sec. 63.01. AUTHORIZED ACTIVITIES. The holder of a nonresident brewer's license may transport malt beverages into Texas only to holders of brewer's or distributor's licenses. The nonresident brewer's licensee may transport the malt beverages in carriers or vehicles operated by holders of carrier's permits or in motor vehicles owned or leased by the nonresident brewer. The malt beverages must be shipped in barrels or other containers in accordance with the provisions of this code and may not be shipped into the state in tank cars.

Acts 1977, 65th Leg., p. 476, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 1969, ch. 777, Sec. 11, eff. Aug. 27, 1979.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 226, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 63.03. LIABILITY FOR TAXES; BOND. The holder of a nonresident brewer's license that transports malt beverages into Texas in a motor vehicle owned or leased by the licensee is not primarily responsible for the payment of the taxes on the malt beverages, which remains the responsibility of the holder of the

brewer's or distributor's license. However, the nonresident brewer shall furnish the commission with a bond in an amount which, in the commission's judgment, will protect the revenue of the state from the tax due on the malt beverages over any six-week period.

Acts 1977, 65th Leg., p. 477, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 227, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 63.04. APPLICATION OF CODE PROVISIONS AND RULES. A holder of a nonresident brewer's license is subject to all applicable provisions of this code and all applicable rules of the commission which apply to holders of brewer's licenses, including rules relating to the quality, purity, and identity of malt beverages and to protecting the public health. The commission may suspend or cancel a nonresident brewer's license and apply penalties in the same manner as it does with respect to a brewer's license.

Acts 1977, 65th Leg., p. 477, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 228, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 63.05. USE OF FACILITIES. (a) The holder of a brewer's or nonresident brewer's license may contract with the holder of a nonresident brewer's license:

(1) to provide brewing services; or

(2) for the use of the license holder's brewing facilities under an alternating brewery proprietorship if each party to the proprietorship:

(A) has filed the appropriate Brewer's Notice and Brewer's Bond as required by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury; and

(B) if applicable, has posted with the commission a bond in an amount determined by the commission under Subsection (d)

or (e).

(b) An entity is not required to own its brewing facilities if the entity operates under an alternating brewery proprietorship as provided by Subsection (a).

(b-1) Each entity that is a party to an alternating brewery proprietorship or contract brewing arrangement must hold a license at the location where brewing services are conducted under the arrangement.

(c) This section does not authorize a person acting as an agent for a brewer located outside of this state to contract with the holder of a nonresident brewer's license to brew malt beverages on the person's behalf. A contract described by this subsection may only be entered into by the holder of a nonresident brewer's license and another person holding a license under this code.

(d) Subject to Subsection (e), the commission by rule may require an entity that is a party to an alternating brewery proprietorship or contract brewing arrangement to post with the commission a bond in an amount determined by the commission not to exceed $200,000.

(e) An entity that is a party to an alternating brewery proprietorship or contract brewing arrangement must post with the commission a bond in an amount determined by the commission of not less than $30,000 if the entity does not own a fee interest in a brewing facility.

Added by Acts 2005, 79th Leg., Ch. 1182 (S.B. 1255), Sec. 7, eff. June 18, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1074 (H.B. 3307), Sec. 8, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 229, eff. September 1, 2021.

CHAPTER 64. GENERAL DISTRIBUTOR'S LICENSE

Sec. 64.01. AUTHORIZED ACTIVITIES.

Text of subsection effective until September 1, 2021

(a) The holder of a general distributor's license may:

(1) receive beer in unbroken original packages from

manufacturers and brewpubs and from general, local, or branch distributors;

(2) distribute or sell beer in the unbroken original packages in which it is received to general, branch, or local distributors, to local distributor permittees, to permittees or licensees authorized to sell to ultimate consumers, to private club registration permittees, to authorized outlets located on any installation of the national military establishment, or to qualified persons for shipment and consumption outside the state; and

(3) serve free beer for consumption on the licensed premises.

Text of subsection effective on September 1, 2021

(a) The holder of a general distributor's license may:

(1) receive malt beverages in unbroken original packages from brewers and brewpubs and from general or branch distributors;

(2) distribute or sell malt beverages in the unbroken original packages in which they are received to general or branch distributors, to local distributor permittees, to permittees or licensees authorized to sell to ultimate consumers, to private club registration permittees, to authorized outlets located on any installation of the national military establishment, or to qualified persons for shipment and consumption outside the state; and

(3) serve free malt beverages for consumption on the licensed premises.

(b) All sales made under the authority of this section except sales to general, local, or branch distributor's licensees must be made in accordance with Sections 61.73 and 102.31 of this code.

Acts 1977, 65th Leg., p. 477, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 53, ch. 33, Sec. 3, eff. Aug. 27, 1979.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 750 (S.B. 515), Sec. 3, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 230, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 64.02. FEE. The annual state fee for a general

distributor's license is $300.

Acts 1977, 65th Leg., p. 477, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1350, ch. 278, Sec. 40, eff. Sept. 1, 1983.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(25), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 64.03. SALE OF BEER TO PRIVATE CLUBS. The holder of a general distributor's license may sell and deliver beer to private clubs located in wet areas without having to secure a prior order. All sales made under the authority of this section must be made in accordance with Sections 61.73 and 102.31 of this code.

Acts 1977, 65th Leg., p. 477, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 231, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 64.03. SALE OF MALT BEVERAGES TO PRIVATE CLUBS. The holder of a general distributor's license may sell and deliver malt beverages to private clubs located in wet areas without having to secure a prior order. All sales made under the authority of this section must be made in accordance with Sections 61.73 and 102.31.

Acts 1977, 65th Leg., p. 477, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 231, eff. September 1, 2021.

Sec. 64.04. RECORDS.

Text of subsection effective until September 1, 2021

(a) Each holder of a general, local, or branch distributor's

license shall make and keep a daily record of every receipt of beer and of every sale of beer, including the name of each purchaser. Each transaction shall be recorded on the day it occurs. The licensee shall make and keep any other records that the commission or administrator requires.

Text of subsection effective on September 1, 2021

(a) Each holder of a general or branch distributor's license shall make and keep a daily record of every receipt of malt beverages and of every sale of malt beverages, including the name of each purchaser. Each transaction shall be recorded on the day it occurs. The licensee shall make and keep any other records that the commission or administrator requires.

(b) All required records shall be kept available for inspection by the commission or its authorized representative during reasonable office hours for at least two years.

(c) The failure to make or keep a record as required by this section, the making of a false entry in the record, or the failure to make an entry as required by this section is a violation of this code.

Acts 1977, 65th Leg., p. 478, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 232, eff. September 1, 2021.

Sec. 64.05. PERSONS INELIGIBLE FOR LICENSE. A general distributor's license may not be issued to a person who is the holder of a package store permit or a wine only package store permit.

Acts 1977, 65th Leg., p. 478, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 64.06. WAREHOUSES; DELIVERY TRUCKS. Section 62.08 of this code applies to the use of warehouses and delivery trucks by general distributor's licensees.

Acts 1977, 65th Leg., p. 478, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 64.07. MAY SHARE PREMISES. (a) Any number of general, local, and branch distributors may use the same delivery vehicles, premises, location, or place of business as licensed premises if the beer owned and stored by each of the distributors is segregated.

(b) If delivery vehicles are shared by any number of distributors who also hold any class of wholesaler's permits, liquor or beer may be transported. The provisions of Section 42.03 of this code do not apply and no distributor or wholesaler shall be required to obtain the certificate or permit described by that section to share a delivery vehicle for the transportation of liquor or beer.

(c) The provisions of Subsections (a) and (b) of this section that relate to shared delivery vehicles apply only to those general, local, or branch distributors who hold a territorial designation from a manufacturer under Section 102.51 of this code.

Acts 1977, 65th Leg., p. 478, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1987, 70th Leg., ch. 359, Sec. 3, eff. Aug. 31, 1987.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 233, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 64.07. MAY SHARE PREMISES. (a) Any number of general and branch distributors may use the same delivery vehicles, premises, location, or place of business as licensed premises if the malt beverages owned and stored by each of the distributors are segregated.

(b) If delivery vehicles are shared by any number of distributors who also hold any class of wholesaler's permits, liquor or malt beverages may be transported.

(c) The provisions of Subsections (a) and (b) that relate to shared delivery vehicles apply only to those general or branch distributors who hold a territorial designation from a brewer under Section 102.51.

Acts 1977, 65th Leg., p. 478, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1987, 70th Leg., ch. 359, Sec. 3, eff. Aug. 31, 1987.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 233, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 64.08. BEER FOR USE IN FOOD PRODUCTS INDUSTRY. (a) The holder of a general distributor's license may sell beer for use as an ingredient in the manufacturing and processing of food products.

(b) The beer must be sold in containers of not less than one-half barrel. The sale is subject to the requirements of Section 102.31 of this code. The seller shall keep records of shipments and sales of beer in a manner prescribed by the commission or administrator.

(c) A person may not resell beer purchased under this section, divert the beer to use for beverage purposes, possess the beer with intent that it be used for beverage purposes, or possess the beer under circumstances from which it may reasonably be deduced that the beer is to be used for beverage purposes.

(d) Taxes imposed by this code do not apply to beer sold under this section.

Added by Acts 1991, 72nd Leg., ch. 348, Sec. 1, eff. Aug. 26, 1991.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 234(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 234(b), eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 64.08. MALT BEVERAGES FOR USE IN FOOD PRODUCTS INDUSTRY. (a) The holder of a general distributor's license may sell malt beverages for use as an ingredient in the manufacturing and processing of food products.

(b) The malt beverages must be sold in containers of not less than one-half barrel. The sale is subject to the requirements of Section 102.31. The seller shall keep records of shipments and sales of malt beverages in a manner prescribed by the commission or administrator.

(c) A person may not resell malt beverages purchased under this

section, divert the malt beverages to use for beverage purposes, possess the malt beverages with intent that the malt beverages be used for beverage purposes, or possess the malt beverages under circumstances from which it may reasonably be deduced that the malt beverages are to be used for beverage purposes.

(d) Taxes imposed by this code do not apply to malt beverages sold under this section.

Added by Acts 1991, 72nd Leg., ch. 348, Sec. 1, eff. Aug. 26, 1991.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 234(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 234(b), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 64.09. BEER FOR EXPORT. (a) In this section "beer for export" means beer a distributor holds for export to another state in which the distributor has been assigned a territory for the distribution and sale of the beer. The term includes beer that is illegal to sell in this state because of alcohol content, containers, packages, or labels.

(b) The holder of a general distributor's license who receives beer for export from the holder of a manufacturer's or nonresident manufacturer's license may:

(1) store the beer for export at the distributor's premises;

(2) transport the beer for export outside the state in the distributor's own vehicles; or

(3) deliver the beer for export to a common carrier for export and delivery outside the state.

(c) The holder of a general distributor's license is not liable for any state tax on the beer for export.

(d) Section 101.67 does not apply to beer for export.

Added by Acts 2003, 78th Leg., ch. 489, Sec. 4, eff. Sept. 1, 2003.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 235, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 64.09. MALT BEVERAGES FOR EXPORT. (a) In this section "malt beverages for export" means malt beverages a distributor holds for export to another state in which the distributor has been assigned a territory for the distribution and sale of the malt beverages. The term includes malt beverages that are illegal to sell in this state because of alcohol content, containers, packages, or labels.

(b) The holder of a general distributor's license who receives malt beverages for export from the holder of a brewer's or nonresident brewer's license may:

(1) store the malt beverages for export at the distributor's premises;

(2) transport the malt beverages for export outside the state in the distributor's own vehicles; or

(3) deliver the malt beverages for export to a common carrier for export and delivery outside the state.

(c) The holder of a general distributor's license is not liable for any state tax on the malt beverages for export.

(d) Section 101.67 does not apply to malt beverages for export.

Added by Acts 2003, 78th Leg., ch. 489, Sec. 4, eff. Sept. 1, 2003.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 235, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 64.10. IMPORTING MALT BEVERAGES. (a) In this section, "importer" means a person who imports malt beverages into the state in quantities in excess of 288 fluid ounces in any one day.

(b) The holder of a general distributor's license may import malt beverages into this state only from the holder of a nonresident brewer's license and may transport those beverages into this state only:

(1) in a motor vehicle that is:

(A) owned or leased in good faith by the license holder; and

(B) printed or painted with the designation required by the commission; or

(2) by a railway carrier or by a motor carrier registered under Chapter 643, Transportation Code, or with the Federal Motor Carrier Safety Administration.

(c) The holder of a general distributor's license transporting malt beverages under Subsection (b)(1) shall provide to the commission:

(1) a full description of each motor vehicle used by the license holder for transporting malt beverages; and

(2) any other information the commission requires.

(d) A carrier transporting malt beverages as authorized by Subsection (b)(2) must hold a carrier permit issued under Chapter 41 and the provisions of Chapter 41 relating to the transportation of liquor apply to the transportation of the malt beverages. A carrier may not transport malt beverages into the state unless it is consigned to an importer.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 236, eff. September 1, 2021.

CHAPTER 66. BRANCH DISTRIBUTOR'S LICENSE

Sec. 66.01. AUTHORIZED ACTIVITIES. The holder of a branch distributor's license may engage in the same activities as a holder of a general distributor's license.

Acts 1977, 65th Leg., p. 479, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 66.02. FEE. The annual state fee for a branch distributor's license is $75 per year or fraction of a year.

Acts 1977, 65th Leg., p. 479, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 1973, ch. 777, Sec. 22, eff. Aug. 27, 1979; Acts 1983, 68th Leg., p. 1350, ch. 278, Sec. 42, eff. Sept. 1, 1983.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(26), eff. September 1, 2021.

Sec. 66.03. ISSUANCE OF LICENSE.

Text of subsection effective until September 1, 2021

(a) Except as provided in Subsection (b) of this section, a branch distributor's license may be issued only to the holder of a general distributor's license who first has obtained the primary license in the county of his residence or domicile. The branch distributor's license may be issued for premises in any county where the sale of beer is legal.

Text of subsection effective on September 1, 2021

(a) Except as provided in Subsection (b), a branch distributor's license may be issued only to the holder of a general distributor's license who first has obtained the primary license in the county of the licensee's residence or domicile. The branch distributor's license may be issued for premises in any county where the sale of malt beverages is legal.

(b) A general distributor's licensee whose primary license was voided by a local option election under prior law, who took advantage of the right then existing to obtain a primary license in another county where he held a branch distributor's license without qualifying as a resident or domiciliary of that county, is not prevented from continuing to renew the primary license or from holding one or more branch licenses by the fact that the primary license is not in the county of his residence or domicile.

Acts 1977, 65th Leg., p. 479, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 54, ch. 33, Sec. 5, eff. Aug. 27, 1979.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 237, eff. September 1, 2021.

Sec. 66.04. PERSONS INELIGIBLE FOR LICENSE. A branch distributor's license may not be issued to a person who holds a package store permit or a wine only package store permit, or to a person who does not meet the qualifications to be issued an original general distributor's license.

Acts 1977, 65th Leg., p. 480, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1987, 70th Leg., ch. 359, Sec. 4, eff. Aug. 31, 1987.

Sec. 66.05. EXPIRATION OF LICENSE. A branch distributor's license expires at the same time as the holder's primary license.

Acts 1977, 65th Leg., p. 480, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 66.06. RENEWAL OF LICENSE. Application for renewal of a branch distributor's license may be made concurrently with the filing of the application for the renewal of the holder's primary license.

Acts 1977, 65th Leg., p. 480, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 66.07. SALE OF BEER TO PRIVATE CLUBS. The holder of a branch distributor's license may sell and deliver beer to private clubs located in wet areas without having to secure a prior order. All sales made under the authority of this section must be made in accordance with Sections 61.73 and 102.31 of this code.

Acts 1977, 65th Leg., p. 480, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 238, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 66.07. SALE OF MALT BEVERAGES TO PRIVATE CLUBS. The holder of a branch distributor's license may sell and deliver malt beverages to private clubs located in wet areas without having to secure a prior order. All sales made under the authority of this section must be made in accordance with Sections 61.73 and 102.31.

Acts 1977, 65th Leg., p. 480, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 238, eff.

September 1, 2021.

Sec. 66.08. RECORDS. (a) Section 64.04 of this code applies to recordkeeping by branch distributor's licensees.

(b) The holder of a branch distributor's license may apply to the administrator for permission to maintain required records at the premises of the holder of the general distributor's license for that branch distributor licensee. If, in the judgment of the administrator, the licensee is deemed qualified, the administrator in writing may grant the application. If the administrator denies the application, he shall do so in writing and must base his denial on one of the grounds specified in Section 61.74 of this code or any other valid reason.

(c) In making a determination as to the qualifications of the holder of a branch distributor's license to maintain required records at another premises, the administrator shall consider the distributor's past record of compliance with the provisions of this code and the distributor's history of filing timely and correct reports to the commission.

Acts 1977, 65th Leg., p. 480, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1987, 70th Leg., ch. 359, Sec. 1, eff. Aug. 31, 1987.

Sec. 66.09. WAREHOUSES; DELIVERY TRUCKS. Section 62.08 of this code applies to the use of warehouses and delivery trucks by branch distributor's licensees.

Acts 1977, 65th Leg., p. 480, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 66.10. MAY SHARE PREMISES. The sharing of premises by distributors is covered by Section 64.07 of this code.

Acts 1977, 65th Leg., p. 480, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 66.11. BEER FOR EXPORT. (a) In this section "beer for export" means beer a distributor holds for export to another state in

which the distributor has been assigned a territory for the distribution and sale of the beer. The term includes beer that is illegal to sell in this state because of alcohol content, containers, packages, or labels.

(b) The holder of a branch distributor's license who receives beer for export from the holder of a manufacturer's or nonresident manufacturer's license may:

(1) store the beer for export at the distributor's premises;

(2) transport the beer for export outside the state in the distributor's own vehicles; or

(3) deliver the beer for export to a common carrier for export and delivery outside the state.

(c) The holder of a branch distributor's license is not liable for any state tax on the beer for export.

(d) Section 101.67 does not apply to beer for export.

Added by Acts 2003, 78th Leg., ch. 489, Sec. 6, eff. Sept. 1, 2003.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 239, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 66.11. MALT BEVERAGES FOR EXPORT. (a) In this section "malt beverages for export" means malt beverages a distributor holds for export to another state in which the distributor has been assigned a territory for the distribution and sale of the malt beverages. The term includes malt beverages that are illegal to sell in this state because of alcohol content, containers, packages, or labels.

(b) The holder of a branch distributor's license who receives malt beverages for export from the holder of a brewer's or nonresident brewer's license may:

(1) store the malt beverages for export at the distributor's premises;

(2) transport the malt beverages for export outside the state in the distributor's own vehicles; or

(3) deliver the malt beverages for export to a common carrier for export and delivery outside the state.

(c) The holder of a branch distributor's license is not liable for any state tax on the malt beverages for export.

(d) Section 101.67 does not apply to malt beverages for export.

Added by Acts 2003, 78th Leg., ch. 489, Sec. 6, eff. Sept. 1, 2003.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 239, eff. September 1, 2021.

Text of chapter effective until September 1, 2021

CHAPTER 67. IMPORTER'S LICENSE

Text of section effective until September 1, 2021

Sec. 67.01. AUTHORIZED ACTIVITIES. A holder of an importer's license may import beer into this state only from the holder of a nonresident manufacturer's license. The beer may be transported by a railway carrier, a motor carrier registered under Chapter 643, Transportation Code, or by a common motor carrier operated under a certificate issued by the Interstate Commerce Commission. Each carrier must hold a carrier's permit issued under Chapter 41 of this code. All provisions of Chapter 41 relating to the transportation of liquor also apply to the transportation of beer. A carrier may not transport beer into the state unless it is consigned to an importer.

Acts 1977, 65th Leg., p. 481, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 1970, ch. 777, Sec. 12, eff. Aug. 27, 1979; Acts 1995, 74th Leg., ch. 705, Sec. 7, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 30.174, eff. Sept. 1, 1997.

Text of section effective until September 1, 2021

Sec. 67.02. FEE. The fee for an importer's license is $20 per year or fraction of a year.

Acts 1977, 65th Leg., p. 481, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1350, ch. 278, Sec. 43, eff. Sept. 1, 1983.

Text of section effective until September 1, 2021

Sec. 67.03. DEFINITION. As used in this subtitle, "importer" means a person who imports beer into the state in quantities in excess of 288 fluid ounces in any one day.

Acts 1977, 65th Leg., p. 481, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 67.04. ELIGIBILITY FOR LICENSE. An importer's license may be issued only to a holder of a manufacturer's or distributor's license.

Acts 1977, 65th Leg., p. 481, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 67.05. EXPIRATION OF LICENSE. An importer's license expires at the same time as the primary manufacturer's or distributor's license under which it is issued.

Acts 1977, 65th Leg., p. 481, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 67.06. APPLICATION FOR LICENSE. An application for an importer's license must contain all information required by the commission.

Acts 1977, 65th Leg., p. 481, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of chapter effective until September 1, 2021

CHAPTER 68. IMPORTER'S CARRIER'S LICENSE

Text of section effective until September 1, 2021

Sec. 68.01. AUTHORIZED ACTIVITIES. An importer who holds an importer's carrier's license may import beer into this state in vehicles owned or leased in good faith by him.

Acts 1977, 65th Leg., p. 481, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 68.02. FEE. The fee for an importer's carrier's license is $20 per year or fraction of a year.

Acts 1977, 65th Leg., p. 481, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 1350, ch. 278, Sec. 44, eff. Sept. 1, 1983.

Text of section effective until September 1, 2021

Sec. 68.03. ELIGIBILITY FOR LICENSE. An importer's carrier's license may be issued only to a holder of an importer's license.

Acts 1977, 65th Leg., p. 481, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 68.04. APPLICATION FOR LICENSE; DESCRIPTION OF VEHICLES. (a) An application for an importer's carrier's license must contain a description of the vehicles to be used and other information required by the commission.

(b) An importer may not import beer into the state in any vehicle not fully described in his application, except as permitted in Section 67.01 of this code.

Acts 1977, 65th Leg., p. 481, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 68.05. EXPIRATION OF LICENSE. An importer's carrier's license expires at the same time as the holder's primary importer's license.

Acts 1977, 65th Leg., p. 481, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 68.06. DESIGNATION OF VEHICLES. All vehicles used under an importer's carrier's license must have painted or printed on them the designation required by the commission.

Acts 1977, 65th Leg., p. 482, ch. 194, Sec. 1, eff. Sept. 1, 1977.

CHAPTER 69. RETAIL DEALER'S ON-PREMISE LICENSE

Text of section effective until September 1, 2021

Sec. 69.01. AUTHORIZED ACTIVITIES. The holder of a retail dealer's on-premise license may sell beer in or from any lawful container to the ultimate consumer for consumption on or off the premises where sold. The licensee may not sell beer for resale.

Acts 1977, 65th Leg., p. 482, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 240, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 69.01. AUTHORIZED ACTIVITIES. The holder of a retail dealer's on-premise license may sell malt beverages in or from any lawful container to the ultimate consumer for consumption on or off the premises where sold. The licensee may not sell malt beverages for resale.

Acts 1977, 65th Leg., p. 482, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 240, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 69.02. FEE. (a) Except as provided in Subsection (b) and Section 69.03, the annual state fee for a retail dealer's on-premise license is $150.

(b) The annual state fee for a retail dealer's on-premise license in connection with an establishment located in a county with a population of 1.4 million or more is $750. The original

application fee for a retail dealer's on-premise license in connection with an establishment located in a county with a population of 1.4 million or more is $1,000.

Acts 1977, 65th Leg., p. 482, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1351, ch. 278, Sec. 45, eff. Sept. 1, 1983.
Amended by:
Acts 2005, 79th Leg., Ch. 452 (S.B. 1850), Sec. 8, eff. September 1, 2005.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(27), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 69.03. ISSUANCE OF LICENSE FOR RAILWAY CARS. A retail dealer's on-premise license may be issued for a railway dining, buffet, or club car. Application for a license of this type shall be made directly to the commission, and the annual state fee is $30 for each car.

Acts 1977, 65th Leg., p. 482, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1351, ch. 278, Sec. 46, eff. Sept. 1, 1983.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(28), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 69.04. HOTELS NOT DISQUALIFIED. The fact that a hotel holds a permit to sell distilled spirits in unbroken packages does not disqualify the hotel from also obtaining a license to sell beer for on-premises consumption.

Acts 1977, 65th Leg., p. 482, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 241, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 69.04. HOTELS NOT DISQUALIFIED. The fact that a hotel holds a permit to sell distilled spirits in unbroken packages does not disqualify the hotel from also obtaining a license to sell malt beverages for on-premises consumption.

Acts 1977, 65th Leg., p. 482, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 241, eff. September 1, 2021.

Sec. 69.06. DENIAL OF ORIGINAL APPLICATION. (a) The commission shall deny an original application for a retail dealer's on-premise license 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;

(2) a vagrancy offense involving moral turpitude;

(3) bookmaking;

(4) gambling or gaming;

(5) an offense involving controlled substances as defined in the Texas Controlled Substances Act, including an offense involving a synthetic cannabinoid, or an offense involving 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 license if the commission finds that five years has 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 retail dealer's on-premise license if it finds:

(1) that the applicant or the applicant's spouse has been finally 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 has not elapsed since the termination of a sentence, parole, or probation served by the applicant or the applicant's spouse because of a felony prosecution or prosecution for any of the offenses described in Subsection (a).

(d) In this section the word "applicant" includes the individual natural person holding or applying for the license or, if the holder or applicant is not an individual natural person, the individual partner, officer, trustee, or receiver who is primarily responsible for the management of the premises.

(e) 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. 483, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 2003, 78th Leg., ch. 625, Sec. 5, eff. Sept. 1, 2003.
Amended by:

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

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 242, eff. December 31, 2020.

Sec. 69.09. ACQUISITION OF BEVERAGES FOR RESALE FROM OTHER LICENSEES PROHIBITED. No holder of a retail dealer's on-premise license may borrow or acquire from, exchange with, or loan to any other holder of a retail dealer's on-premise license or holder of a retail dealer's off-premise license any alcoholic beverage for the purpose of resale.

Acts 1977, 65th Leg., p. 484, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 69.10. STORING OR POSSESSING BEER OFF PREMISES PROHIBITED. No holder of a retail dealer's on-premise license may own, possess, or store beer for the purpose of resale except on the licensed

premises.

Acts 1977, 65th Leg., p. 484, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 243, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 69.10. STORING OR POSSESSING MALT BEVERAGES OFF PREMISES PROHIBITED. No holder of a retail dealer's on-premise license may own, possess, or store malt beverages for the purpose of resale except on the licensed premises.

Acts 1977, 65th Leg., p. 484, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 243, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 69.11. EXCHANGE OR TRANSPORTATION OF BEER BETWEEN LICENSED PREMISES UNDER SAME OWNERSHIP. The owner of two or more licensed retail premises may not exchange or transport beer between them unless all of the conditions set out in Section 24.04 of this code are met, except that beer may be transferred between two licensed retail premises that are both covered by package store permits as provided in Section 22.08 of this code.

Acts 1977, 65th Leg., p. 484, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 244, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 69.11. EXCHANGE OR TRANSPORTATION OF MALT BEVERAGES BETWEEN LICENSED PREMISES UNDER SAME OWNERSHIP. The owner of two or more licensed retail premises may not exchange or transport malt beverages between them unless all of the conditions set out in

Section 24.04 are met, except that malt beverages may be transferred between two licensed retail premises that are both covered by package store permits as provided in Section 22.08.

Acts 1977, 65th Leg., p. 484, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 244, eff. September 1, 2021.

Sec. 69.12. POSSESSION OF CERTAIN BEVERAGES PROHIBITED. No retail dealer's on-premise licensee, nor the licensee's officer, agent, servant, or employee, may possess on the licensed premises an alcoholic beverage which is not authorized to be sold on the premises.

Acts 1977, 65th Leg., p. 484, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 69.13. BREACH OF PEACE: RETAIL ESTABLISHMENT. The commission or administrator may suspend or cancel the license of a retail beer dealer after giving the licensee notice and the opportunity to show compliance with all requirements of law for retention of the license if it finds that a breach of the peace has occurred on the licensed premises or on premises under the licensee's control and that the breach of the peace was not beyond the control of the licensee and resulted from his improper supervision of persons permitted to be on the licensed premises or on premises under his control.

Acts 1977, 65th Leg., p. 484, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 245, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 69.13. BREACH OF PEACE: RETAIL ESTABLISHMENT. The commission or administrator may suspend or cancel the license of a

retail malt beverage dealer after giving the licensee notice and the opportunity to show compliance with all requirements of law for retention of the license if it finds that a breach of the peace has occurred on the licensed premises or on premises under the licensee's control and that the breach of the peace was not beyond the control of the licensee and resulted from the licensee's improper supervision of persons permitted to be on the licensed premises or on premises under the licensee's control.

Acts 1977, 65th Leg., p. 484, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 245, eff. September 1, 2021.

Sec. 69.14. SEATING AREA REQUIRED. A retail dealer's on-premise licensee must have an area designated on the premises for the permittee's customers to sit if they wish to consume beverages sold by the licensee on the premises.

Added by Acts 1983, 68th Leg., p. 2211, ch. 414, Sec. 2, eff. Sept. 1, 1983.

Sec. 69.15. RESTRICTIONS ON LOCATION IN CERTAIN MUNICIPALITIES. (a) Section 11.52 of this code applies to the issuance of a retail dealer's on-premise license as if the license were a permit to which this section applies.

(b) Section 61.31(b) of this code does not apply to an application for a retail dealer's on-premise license.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 56, eff. Sept. 1, 1993.

Sec. 69.16. FOOD AND BEVERAGE CERTIFICATE. (a) In this section, "location" means the designated physical address of the retail dealer's on-premise license and includes all areas at the address where the license 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 retail dealer's on-premise license may be

issued a food and beverage certificate by the commission if the commission finds that the receipts from the sale of alcoholic beverages by the license 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 licensees 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 retail dealer's on-premise license. 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 licensee 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 licensee's retail dealer's on-premise license. The holder of a retail dealer's on-premise license 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 61.13 does not apply to the holder of a food and beverage certificate.

Added by Acts 1995, 74th Leg., ch. 1060, Sec. 8, eff. Aug. 28, 1995.
Amended by Acts 2001, 77th Leg., ch. 853, Sec. 4, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1045, Sec. 4, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1384 (S.B. 1426), Sec. 2, eff. September 1, 2007.

Acts 2017, 85th Leg., R.S., Ch. 466 (H.B. 2101), Sec. 4, eff. September 1, 2017.

Sec. 69.17. ISSUANCE OF LICENSE AUTHORIZED FOR CERTAIN AREAS.

Text of subsection effective until September 1, 2021

(a) Notwithstanding any other provision of this code, a license 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 beer 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."

Text of subsection effective on September 1, 2021

(a) Notwithstanding any other provision of this code, a license 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 license 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 license under this chapter only if the premises is issued a food and beverage certificate.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1298 (H.B. 2818), Sec. 2, eff. September 1, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 246, eff.

September 1, 2021.

Text of section effective on September 1, 2021

Sec. 69.18. SALES AT TEMPORARY LOCATION. (a) The holder of a retail dealer's on-premise license may temporarily sell malt beverages in or from any lawful container to ultimate consumers:

(1) at a picnic, celebration, or similar event; and

(2) in the county where the license is issued.

(b) The holder of a retail dealer's on-premise license may temporarily sell malt beverages under this section for not more than four consecutive days at the same location.

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

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

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

(3) detail the circumstances when a license holder may temporarily sell malt beverages under this section with just a notification to the commission and the circumstances that require the commission's preapproval before a license holder may temporarily sell malt beverages under this section; and

(4) require the license holder to provide any other information the commission determines necessary.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 247, eff. September 1, 2021.

Text of chapter effective until September 1, 2021

CHAPTER 70. RETAIL DEALER'S ON-PREMISE LATE HOURS LICENSE

Text of section effective until September 1, 2021

Sec. 70.01. AUTHORIZED ACTIVITIES. The holder of a retail dealer's on-premise late hours license may sell beer for consumption on the premises on Sunday between the hours of 1:00 a.m. and 2 a.m. and on any other day between the hours of 12 p.m. and 2 a.m. if the

premises covered by the license are in an area where the sale of beer during those hours is authorized under Section 105.05(c) or (d).

Acts 1977, 65th Leg., p. 485, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 304 (S.B. 540), Sec. 1, eff. June 1, 2015.

Text of section effective until September 1, 2021

Sec. 70.02. FEE. The annual state fee for a retail dealer's on-premise late hours license is $250.

Acts 1977, 65th Leg., p. 485, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1351, ch. 278, Sec. 47, eff. Sept. 1, 1983.

Text of section effective until September 1, 2021

Sec. 70.03. APPLICATION OF CERTAIN CODE PROVISIONS. All provisions of this code which apply to a retail dealer's on-premise license also apply to a retail dealer's on-premise late hours license.

Acts 1977, 65th Leg., p. 485, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 70.04. ISSUANCE OF LICENSE AUTHORIZED FOR CERTAIN AREAS. (a) Notwithstanding any other provision of this code, a license 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 beer 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 license 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 license under this chapter only if the premises is issued a food and beverage certificate.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1298 (H.B. 2818), Sec. 3, eff. September 1, 2013.

CHAPTER 71. RETAIL DEALER'S OFF-PREMISE LICENSE

Text of section effective until September 1, 2021

Sec. 71.01. AUTHORIZED ACTIVITIES. The holder of a retail dealer's off-premise license may sell beer in lawful containers to consumers, but not for resale and not to be opened or consumed on or near the premises where sold.

Acts 1977, 65th Leg., p. 485, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 248, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 71.01. AUTHORIZED ACTIVITIES. The holder of a retail dealer's off-premise license may sell malt beverages in lawful containers to consumers, but not for resale and not to be opened or consumed on or near the premises where sold.

Acts 1977, 65th Leg., p. 485, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 248, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 71.02. FEE. The annual state fee for a retail dealer's off-premise license is $60.

Acts 1977, 65th Leg., p. 485, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1351, ch. 278, Sec. 48, eff.

Sept. 1, 1983.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(29), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 71.03. AUTHORITY OF LICENSEE HOLDING PACKAGE STORE PERMIT OR WINE ONLY PACKAGE STORE PERMIT. (a) The holder of a retail dealer's off-premise license who also holds a package store permit may sell beer directly to consumers by the container, but not for resale and not to be opened or consumed on or near the premises where sold.

(b) The holder of a retail dealer's off-premise license who also holds a wine only package store permit may sell beer to consumers by the container, but not for resale and not to be opened or consumed on or near the premises where sold.

(c) The sale of beer by a holder of a retail dealer's off-premise license who also holds a package store permit is subject to the same restrictions and penalties governing the sale of liquor by package stores with regard to:

(1) the hours of sale and delivery;

(2) blinds and barriers;

(3) employment of persons under the age of 18 or sales and deliveries to minors;

(4) sales and deliveries on Sunday; and

(5) advertising.

(d) The sale of beer by a holder of a retail dealer's off-premise license who also holds a wine only package store permit is subject to the same restrictions and penalties governing the sale of liquor by package stores with regard to:

(1) blinds and barriers;

(2) employment of persons under the age of 18 or sales and deliveries to minors;

(3) delivery to the licensee or permittee on Sunday; and

(4) advertising.

Acts 1977, 65th Leg., p. 485, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 54, ch. 33, Sec. 6, eff. Jan. 1, 1980; Acts 1981, 67th Leg., p. 257, ch. 107, Sec. 7, eff. Sept. 1,

1981; Acts 1987, 70th Leg., ch. 303, Sec. 2, eff. June 11, 1987.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(a)(16), eff. September 1, 2021.

Sec. 71.04. POSSESSION OF CERTAIN BEVERAGES PROHIBITED. No retail dealer's off-premise licensee, nor his officer, may possess liquor containing alcohol in excess of 14 percent by volume on the licensed premises.

Acts 1977, 65th Leg., p. 486, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 71.05. ACQUISITION OF BEVERAGES FOR RESALE FROM OTHER LICENSEES PROHIBITED. No holder of a retail dealer's off-premise license may borrow or acquire from, exchange with, or loan to any other holder of a retail dealer's off-premise license or holder of a retail dealer's on-premise license any alcoholic beverage for the purpose of resale.

Acts 1977, 65th Leg., p. 486, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 71.06. STORING OR POSSESSING BEER OFF PREMISES PROHIBITED. No holder of a retail dealer's off-premise license may own, possess, or store beer for the purpose of resale except on the licensed premises.

Acts 1977, 65th Leg., p. 486, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 249, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 71.06. STORING OR POSSESSING MALT BEVERAGES OFF PREMISES PROHIBITED. A holder of a retail dealer's off-premise license may not own, possess, or store malt beverages for the purpose of resale

except on the licensed premises.

Acts 1977, 65th Leg., p. 486, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 249, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 71.07. EXCHANGE OR TRANSPORTATION OF BEER BETWEEN LICENSED PREMISES UNDER SAME OWNERSHIP. Section 69.11 of this code relates to the exchange or transportation of beer between licensed premises by retail dealers.

Acts 1977, 65th Leg., p. 486, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 250, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 71.07. EXCHANGE OR TRANSPORTATION OF MALT BEVERAGES BETWEEN LICENSED PREMISES UNDER SAME OWNERSHIP. Section 69.11 relates to the exchange or transportation of malt beverages between licensed premises by retail dealers.

Acts 1977, 65th Leg., p. 486, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 250, eff. September 1, 2021.

Sec. 71.08. MITIGATING CIRCUMSTANCES: RETAIL DEALER'S OFF-PREMISE LICENSE. Section 11.64 of this code relates to mitigating circumstances with respect to cancellation or suspension of a retail dealer's off-premise license.

Acts 1977, 65th Leg., p. 486, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 71.09. BREACH OF PEACE: RETAIL ESTABLISHMENT. The application of sanctions for the occurrence of a breach of the peace at a retail beer establishment is covered by Section 69.13 of this code.

Acts 1977, 65th Leg., p. 487, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 251, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 71.09. BREACH OF PEACE: RETAIL ESTABLISHMENT. The application of sanctions for the occurrence of a breach of the peace at a retail malt beverage establishment is covered by Section 69.13.

Acts 1977, 65th Leg., p. 487, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 251, eff. September 1, 2021.

Sec. 71.10. WARNING SIGN REQUIRED.

Text of subsection effective until September 1, 2021

(a) Each holder of a retail dealer's off-premise license shall display in a prominent place on his premises a sign stating in letters at least two inches high: IT IS A CRIME (MISDEMEANOR) TO CONSUME LIQUOR OR BEER ON THESE PREMISES.

Text of subsection effective on September 1, 2021

(a) Each holder of a retail dealer's off-premise license shall display in a prominent place on the licensee's premises a sign stating in letters at least two inches high: IT IS A CRIME (MISDEMEANOR) TO CONSUME LIQUOR OR MALT BEVERAGES ON THESE PREMISES.

(b) A licensee who fails to comply with this section commits a misdemeanor punishable by a fine of not more than $25.

Added by Acts 1983, 68th Leg., p. 2212, ch. 414, Sec. 4, eff. Sept. 1, 1983.

Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 252, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 71.11. BEER SAMPLING. (a) The holder of a retail dealer's off-premise license may conduct free product samplings of beer on the license holder's premises during regular business hours as provided by this section.

(b) An agent or employee of the holder of a retail dealer's off-premise license may open, touch, or pour beer, make a presentation, or answer questions at a sampling event.

(c) For the purposes of this code and any other law or ordinance:

(1) a retail dealer's off-premise license does not authorize the sale of alcoholic beverages for on-premise consumption; and

(2) none of the license holder's income may be considered to be income from the sale of alcoholic beverages for on-premise consumption.

(d) Any beer used in a sampling event under this section must be purchased from or provided by the retailer on whose premises the sampling event is held.

Added by Acts 2007, 80th Leg., R.S., Ch. 1073 (H.B. 2723), Sec. 9, eff. September 1, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 253, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 71.11. MALT BEVERAGE SAMPLING. (a) The holder of a retail dealer's off-premise license may conduct free product samplings of malt beverages on the license holder's premises during regular business hours as provided by this section.

(b) An agent or employee of the holder of a retail dealer's off-premise license may open, touch, or pour malt beverages, make a presentation, or answer questions at a sampling event.

(c) For the purposes of this code and any other law or ordinance:

(1) a retail dealer's off-premise license does not authorize the sale of alcoholic beverages for on-premise consumption; and

(2) none of the license holder's income may be considered to be income from the sale of alcoholic beverages for on-premise consumption.

(d) Any malt beverages used in a sampling event under this section must be purchased from or provided by the retailer on whose premises the sampling event is held.

Added by Acts 2007, 80th Leg., R.S., Ch. 1073 (H.B. 2723), Sec. 9, eff. September 1, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 253, eff. September 1, 2021.

Text of chapter effective until September 1, 2021

CHAPTER 72. TEMPORARY LICENSES

Text of section effective until September 1, 2021

Sec. 72.01. AUTHORIZED ACTIVITIES. The holder of a temporary license may sell beer in the county where the license is issued to ultimate consumers in or from any lawful container for consumption on or off the premises where sold.

Acts 1977, 65th Leg., p. 487, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 72.02. FEE. The state fee for a temporary license is $30. No refund shall be allowed for the surrender or nonuse of a temporary license.

Acts 1977, 65th Leg., p. 487, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1351, ch. 278, Sec. 49, eff. Sept. 1, 1983.

Text of section effective until September 1, 2021

Sec. 72.03. DURATION OF LICENSE. A temporary license may be issued for a period of not more than four days.

Acts 1977, 65th Leg., p. 487, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 72.04. REQUIRED BASIC LICENSE OR PERMIT. A temporary license may be issued only to a holder of a retail dealer's on-premise license or a wine and beer retailer's permit.

Acts 1977, 65th Leg., p. 487, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 72.05. ISSUANCE AND USE OF LICENSE; RULES. (a) Temporary licenses shall be issued by the administrator or the commission or the commission's authorized representative. The commission shall adopt rules governing the issuance and use of temporary licenses.

(b) Licenses shall be issued only for the sale of beer at picnics, celebrations, or similar events.

(c) The administrator or commission may refuse to issue a license if there is reason to believe the issuance of the license would be detrimental to the public.

Acts 1977, 65th Leg., p. 487, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 72.06. CANCELLATION OR SUSPENSION OF PRIMARY LICENSE OR PERMIT. The primary license or permit under which a temporary license was issued may be cancelled or suspended for a violation of this code on the premises covered by the temporary license that would justify the cancellation or suspension of a license under Section 61.71 of this code.

Acts 1977, 65th Leg., p. 487, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of chapter effective until September 1, 2021

Text of chapter effective until September 1, 2021

CHAPTER 73. BEER AGENT

Text of section effective until September 1, 2021

Sec. 73.01. AUTHORIZED ACTIVITIES. (a) Subject to the limitations imposed in Section 73.011 or elsewhere in this code, a person acting as an employee or representative of a licensed manufacturer of beer located inside or outside the state or as an employee or representative of a licensed distributor may:

(1) promote the sale of beer through methods such as solicitation, display, advertising, and personal contact with licensed retailers of beer and their agents, servants, and employees, and with consumers of beer; and

(2) sell beer and offer it for sale.

(b) A person acting as a beer agent may represent only one permitted or licensed business at a time while soliciting or taking orders.

Acts 1977, 65th Leg., p. 488, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 57, eff. Sept. 1, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 255(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 255(b), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 73.011. LIMITATIONS ON AUTHORITY OF BEER AGENT. (a) A person who is an employee or agent of a manufacturer's licensee or a nonresident manufacturer's licensee may not represent that the person is the agent of or is acting on behalf of a licensed distributor. An agent may not engage in conduct that is prohibited by Section 102.75 or other provisions of this code.

(b) A beer agent may not make a representation, solicitation, or offer that this code or the rules of the commission prohibits the agent's employer from offering, making, or fulfilling.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 58, eff. Sept. 1, 1993.

Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 256(a), eff. September 1, 2019.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 256(b), eff. September 1, 2021.

Text of chapter effective on September 1, 2021

Text of chapter effective on September 1, 2021

CHAPTER 73. MALT BEVERAGE AGENT

Text of section effective on September 1, 2021

Sec. 73.01. AUTHORIZED ACTIVITIES. (a) Subject to the limitations imposed in Section 73.011 or elsewhere in this code, a person acting as an employee or representative of a licensed brewer of malt beverages located inside or outside the state or as an employee or representative of a licensed distributor may:

(1) promote the sale of malt beverages through methods such as solicitation, display, advertising, and personal contact with licensed retailers of malt beverages and their agents, servants, and employees, and with consumers of malt beverages; and

(2) sell malt beverages and offer them for sale.

(b) A person acting as a malt beverage agent may represent only one permitted or licensed business at a time while soliciting or taking orders.

Acts 1977, 65th Leg., p. 488, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 57, eff. Sept. 1, 1993.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 255(a), eff. September 1, 2019.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 255(b), eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 73.011. LIMITATIONS ON AUTHORITY OF MALT BEVERAGE AGENT. (a) A person who is an employee or agent of a brewer's licensee or a nonresident brewer's licensee may not represent that the person is

the agent of or is acting on behalf of a licensed distributor. A malt beverage agent may not engage in conduct that is prohibited by Section 102.75 or other provisions of this code.

(b) A malt beverage agent may not make a representation, solicitation, or offer that this code or the rules of the commission prohibits the agent's employer from offering, making, or fulfilling.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 58, eff. Sept. 1, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 256(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 256(b), eff. September 1, 2021.

CHAPTER 74. BREWPUB LICENSE

Text of section effective until September 1, 2021

Sec. 74.01. AUTHORIZED ACTIVITIES. (a) A holder of a brewpub license for a brewpub located in a wet area, as that term is described by Section 251.71 of this code, may:

(1) manufacture, brew, bottle, can, package, and label malt liquor, ale, and beer;

(2) sell or offer without charge, on the premises of the brewpub, to ultimate consumers for consumption on or off those premises, malt liquor, ale, or beer produced by the holder, in or from a lawful container, to the extent the sales or offers are allowed under the holder's other permits or licenses; and

(3) sell food on the premises of the holder's breweries.

(b) The holder of a brewpub license may establish, operate, or maintain one or more licensed brewpubs in this state under the same general management or ownership. The holder shall pay the fee assessed by the commission for each establishment. For the purposes of this subsection, two or more establishments are under the same general management or ownership if:

(1) the establishments bottle the same brand of malt liquor, beer, or ale or bottle malt liquor, beer, or ale brewed by the same manufacturer; or

(2) the person, regardless of domicile, who establishes, operates, or maintains the establishments is controlled or directed by one management or by an association of ultimate management.

(c) A holder of a brewpub license must also hold a wine and beer retailer's permit, a mixed beverage permit, or a retail dealer's on-premise license.

(d) The holder of a brewpub license may not hold or have an interest either directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or other person, in a manufacturer's or distributor's license or any other license or permit in the manufacturing or wholesaling levels of the alcoholic beverage industry regardless of the specific names given to permits or licenses in Title 3 of this code. The holder shall be considered a "retailer" for purposes of Section 102.01 of this code.

(e) A holder of a retail dealer's on-premise license who obtains a brewpub license may not manufacture, brew, bottle, can, package, label, sell, or offer without charge malt liquor or ale.

(f) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 750, Sec. 9, eff. June 14, 2013.

(g) The holder of a brewpub license may deliver malt liquor, ale, or beer manufactured by the holder to a location other than the holder's premises for the purpose of submitting the malt liquor, ale, or beer for an evaluation at an organized malt liquor, ale, or beer tasting, competition, or review. At a tasting, competition, or review, a holder of a brewpub license may:

(1) dispense without charge malt liquor, ale, or beer manufactured by the holder to a person attending the event for consumption on the premises of the event; and

(2) discuss with a person attending the event the manufacturing and characteristics of the malt liquor, ale, or beer.

(h) This section does not authorize the holder of a brewpub license who also holds a wine and beer retailer's permit to deliver alcoholic beverages directly to ultimate consumers for off-premise consumption at a location other than the licensed premises.

Added by Acts 1993, 73rd Leg., ch. 478, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 934, Sec. 59, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 387, Sec. 1, eff. Aug. 28, 1995.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 750 (S.B. 515), Sec. 9, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 434 (S.B. 1232), Sec. 4, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 257, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 74.01. AUTHORIZED ACTIVITIES. (a) A holder of a brewpub license for a brewpub located in a wet area, as that term is described by Section 251.71, may:

(1) brew, bottle, can, package, and label malt beverages;

(2) sell or offer without charge, on the premises of the brewpub, to ultimate consumers for consumption on or off those premises, malt beverages produced by the holder, in or from a lawful container, to the extent the sales or offers are allowed under the holder's other permits or licenses; and

(3) sell food on the premises of the holder's breweries.

(b) The holder of a brewpub license may establish, operate, or maintain one or more licensed brewpubs in this state under the same general management or ownership. The holder shall pay the fee assessed by the commission for each establishment. For the purposes of this subsection, two or more establishments are under the same general management or ownership if:

(1) the establishments bottle the same brand of malt beverage or bottle malt beverages brewed by the same brewer; or

(2) the person, regardless of domicile, who establishes, operates, or maintains the establishments is controlled or directed by one management or by an association of ultimate management.

(c) A holder of a brewpub license must also hold a wine and malt beverage retailer's permit, a mixed beverage permit, or a retail dealer's on-premise license.

(d) The holder of a brewpub license may not hold or have an interest either directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or other person, in a brewer's or distributor's license or any other license or permit in the manufacturing or wholesaling levels of the alcoholic beverage industry regardless of the specific names given to permits or licenses in Title 3 of this code. The holder shall be considered a "retailer" for purposes of Section 102.01.

(e) The holder of a brewpub license may deliver malt beverages brewed by the holder to a location other than the holder's premises for the purpose of submitting the malt beverages for an evaluation at

an organized malt beverage tasting, competition, or review. At a tasting, competition, or review, a holder of a brewpub license may:

(1) dispense without charge malt beverages brewed by the holder to a person attending the event for consumption on the premises of the event; and

(2) discuss with a person attending the event the brewing and characteristics of the malt beverages.

(h) This section does not authorize the holder of a brewpub license who also holds a wine and beer retailer's permit to deliver alcoholic beverages directly to ultimate consumers for off-premise consumption at a location other than the licensed premises.

Added by Acts 1993, 73rd Leg., ch. 478, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 934, Sec. 59, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 387, Sec. 1, eff. Aug. 28, 1995.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 750 (S.B. 515), Sec. 9, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 434 (S.B. 1232), Sec. 4, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 257, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 74.02. FEE. The annual state fee for a brewpub license is $500.

Added by Acts 1993, 73rd Leg., ch. 478, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 934, Sec. 59, eff. Sept. 1, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 409(b)(30), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 74.03. PRODUCTION LIMIT. The total annual production of malt liquor, ale, and beer by a holder of a brewpub license may not exceed 10,000 barrels for each licensed brewpub.

Added by Acts 1993, 73rd Leg., ch. 478, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 934, Sec. 59, eff. Sept. 1, 1993.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 750 (S.B. 515), Sec. 4, eff. June 14, 2013.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 258, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 74.03. PRODUCTION LIMIT. The total annual production of malt beverages by a holder of a brewpub license may not exceed 10,000 barrels for each licensed brewpub.

Added by Acts 1993, 73rd Leg., ch. 478, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 934, Sec. 59, eff. Sept. 1, 1993.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 750 (S.B. 515), Sec. 4, eff. June 14, 2013.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 258, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 74.04. LICENSE APPLICATION, RENEWAL, AND MAINTENANCE; RECORDS; LICENSE ISSUANCE. All provisions of this code that apply to a brewpub licensee's wine and beer retailer's permit, mixed beverage permit, or retail dealer's on-premise license also apply to the brewpub license.

Added by Acts 1993, 73rd Leg., ch. 478, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 934, Sec. 59, eff. Sept. 1, 1993.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 259, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 74.04. LICENSE APPLICATION, RENEWAL, AND MAINTENANCE; RECORDS; LICENSE ISSUANCE. All provisions of this code that apply to

a brewpub licensee's wine and malt beverage retailer's permit, mixed beverage permit, or retail dealer's on-premise license also apply to the brewpub license.

Added by Acts 1993, 73rd Leg., ch. 478, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 934, Sec. 59, eff. Sept. 1, 1993.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 259, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 74.05. STATEMENT OF INTENT. An applicant for a brewpub license shall file with the application a sworn statement that the applicant shall be engaged in the business of brewing and packaging malt liquor, ale, or beer in this state in quantities sufficient to operate a brewpub not later than six months after the date of issuance of the original license. If the applicant is a corporation, the statement must be signed by a principal corporate officer. The commission may not issue a brewpub license to an applicant who does not submit the required sworn statement with the application for a license.

Added by Acts 1993, 73rd Leg., ch. 478, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 934, Sec. 59, eff. Sept. 1, 1993.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 763 (S.B. 1035), Sec. 13, eff. September 1, 2013.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 260(a), eff. December 31, 2020.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 260(b), eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 74.05. STATEMENT OF INTENT. An applicant for a brewpub license shall file with the application a sworn statement that the applicant shall be engaged in the business of brewing and packaging malt beverages in this state in quantities sufficient to operate a brewpub not later than six months after the date of issuance of the

original license. If the applicant is a corporation, the statement must be signed by a principal corporate officer. The commission may not issue a brewpub license to an applicant who does not submit the required sworn statement with the application for a license.

Added by Acts 1993, 73rd Leg., ch. 478, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 934, Sec. 59, eff. Sept. 1, 1993.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 763 (S.B. 1035), Sec. 13, eff. September 1, 2013.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 260(a), eff. December 31, 2020.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 260(b), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 74.06. QUALITY STANDARDS. Manufacturing or brewing equipment used by a holder of a brewpub license, and process, labeling, and packaging conducted by a holder of a brewpub license, shall conform to standards and tax requirements imposed by this code and the commission's rules for the manufacture of beer and the brewing of ale and malt liquor and shall conform to any standards that may be applied by the agency of the United States charged with supervising and inspecting the manufacture and brewing of alcoholic beverages.

Added by Acts 1993, 73rd Leg., ch. 478, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 934, Sec. 59, eff. Sept. 1, 1993.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 261, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 74.06. QUALITY STANDARDS. Brewing equipment used by a holder of a brewpub license, and process, labeling, and packaging conducted by a holder of a brewpub license, shall conform to standards and tax requirements imposed by this code and the commission's rules for the brewing of malt beverages and shall

conform to any standards that may be applied by the agency of the United States charged with supervising and inspecting the brewing of alcoholic beverages.

Added by Acts 1993, 73rd Leg., ch. 478, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 934, Sec. 59, eff. Sept. 1, 1993.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 261, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 74.07. CONTAINER SIZE. In addition to any other container for beer, ale, or malt liquor authorized elsewhere in this code, a holder of a brewpub license may store or serve to consumers beer, ale, or malt liquor manufactured by the holder of the license at the premises of the brewpub license from any container having the capacity of one barrel or whole multiples of one barrel.

Added by Acts 1993, 73rd Leg., ch. 478, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 934, Sec. 59, eff. Sept. 1, 1993.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 262, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 74.07. CONTAINER SIZE. In addition to any other container for malt beverages authorized elsewhere in this code, a holder of a brewpub license may store or serve to consumers malt beverages brewed by the holder of the license at the premises of the brewpub license from any container having the capacity of one barrel or whole multiples of one barrel.

Added by Acts 1993, 73rd Leg., ch. 478, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 934, Sec. 59, eff. Sept. 1, 1993.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 262, eff. September 1, 2021.

Sec. 74.08. SALES BY BREWPUB LICENSE HOLDERS TO RETAILERS.

Text of subsection effective until September 1, 2021

(a) In addition to the activities authorized by Section 74.01, the holder of a brewpub license who holds a wine and beer retailer's permit and whose sale of beer, ale, or malt liquor consists only of beer, ale, or malt liquor manufactured on the brewpub's premises may:

(1) sell malt liquor or ale produced under the license to those retailers or qualified persons to whom the holder of a general class B wholesaler's permit may sell malt liquor or ale under Section 20.01; and

(2) sell beer produced under the license to:

(A) those retailers to whom the holder of a general distributor's license may sell beer under Section 64.01; or

(B) qualified persons to whom the holder of a general distributor's license may sell beer for shipment and consumption outside the state under Section 64.01.

Text of subsection effective on September 1, 2021

(a) In addition to the activities authorized by Section 74.01, the holder of a brewpub license who holds a wine and malt beverage retailer's permit and whose sale of malt beverages consists only of malt beverages brewed on the brewpub's premises may sell malt beverages produced under the license to:

(1) those retailers to whom the holder of a general distributor's license may sell malt beverages under Section 64.01; or

(2) qualified persons to whom the holder of a general distributor's license may sell malt beverages for shipment and consumption outside the state under Section 64.01.

(b) With regard to a sale under Subsection (a)(1), the holder of a brewpub license has the same authority and is subject to the same requirements that apply to a sale made by the holder of a general class B wholesaler's permit.

(c) With regard to a sale under Subsection (a)(2), the holder of a brewpub license has the same authority and is subject to the same requirements that apply to a sale made by the holder of a general distributor's license.

Text of subsection effective until September 1, 2021

(d) The total amount of malt liquor, ale, and beer sold under this section to persons in this state may not exceed 1,000 barrels

annually for each licensed brewpub location or 2,500 barrels annually for all brewpubs operated by the same licensee.

Text of subsection effective on September 1, 2021

(d) The total amount of malt beverages sold under this section to persons in this state may not exceed 1,000 barrels annually for each licensed brewpub location or 2,500 barrels annually for all brewpubs operated by the same licensee.

Added by Acts 2013, 83rd Leg., R.S., Ch. 750 (S.B. 515), Sec. 5, eff. June 14, 2013.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 160 (H.B. 2097), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 263, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 74.09. SALES TO DISTRIBUTORS. (a) In addition to the activities authorized by Section 74.01, the holder of a brewpub license may sell beer produced under the license to the holder of a general, local, or branch distributor's license.

(b) The holder of a brewpub license who sells beer under Subsection (a) shall comply with the requirements of Section 102.51.

Added by Acts 2013, 83rd Leg., R.S., Ch. 750 (S.B. 515), Sec. 5, eff. June 14, 2013.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 264, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 74.09. SALES TO DISTRIBUTORS. (a) In addition to the activities authorized by Section 74.01, the holder of a brewpub license may sell malt beverages produced under the license to the holder of a general or branch distributor's license.

(b) The holder of a brewpub license who sells malt beverages under Subsection (a) shall comply with the requirements of Section 102.51.

Added by Acts 2013, 83rd Leg., R.S., Ch. 750 (S.B. 515), Sec. 5, eff. June 14, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 264, eff. September 1, 2021.

Sec. 74.11. REPORT OF SALES TO RETAILERS. (a) Not later than the 15th day of each month, the holder of a brewpub license shall file a report with the commission that contains information relating to the sales made by the brewpub to a retailer during the preceding calendar month.

(b) The commission shall by rule determine the information that is required to be reported under this section and the manner in which the report must be submitted to the commission. The commission may require the report to contain the same information reported to the comptroller under Section 151.462, Tax Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 750 (S.B. 515), Sec. 5, eff. June 14, 2013.

SUBTITLE C. PROVISIONS APPLICABLE TO PERMITS AND LICENSES

CHAPTER 81. COMMON NUISANCE

Sec. 81.001. DEFINITION. In this chapter, "common nuisance" means a common nuisance as defined by Section 125.001, Civil Practice and Remedies Code, or by Section 101.70(a) of this code.

Added by Acts 2007, 80th Leg., R.S., Ch. 896 (H.B. 2605), Sec. 1, eff. June 15, 2007.

Sec. 81.002. APPLICABILITY OF CHAPTER. This chapter applies only to a permit or license that authorizes the retail sale or service of alcoholic beverages for on-premises consumption of alcoholic beverages, other than a permit or license held with a food and beverage certificate.

Added by Acts 2007, 80th Leg., R.S., Ch. 896 (H.B. 2605), Sec. 1, eff. June 15, 2007.

Sec. 81.003. SUBMISSION OF INFORMATION BY CERTAIN OFFICIALS. For the purposes of Section 81.004 or 81.005, the district or county attorney of the county or the city attorney of the city in which the premises are located may provide information to the commission indicating that the holder of, or applicant for, a permit or license covering the premises has used or can reasonably be expected to use or allow others to use the premises in a manner that constitutes a common nuisance.

Added by Acts 2007, 80th Leg., R.S., Ch. 896 (H.B. 2605), Sec. 1, eff. June 15, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 265, eff. December 1, 2020.

Sec. 81.004. APPLICATION FOR ORIGINAL OR RENEWAL PERMIT OR LICENSE. The commission may deny an application for an original or renewal permit or license as provided by Section 11.43 if the commission finds that, at any time during the 12 months preceding the permit or license application, a common nuisance existed on the premises for which the permit or license is sought, regardless of whether the acts constituting the common nuisance were engaged in by the applicant or whether the applicant controlled the premises at the time the common nuisance existed. The commission may issue an original or renewal permit or license if it is found that the applicant did not control the premises at the time the common nuisance existed and the applicant has taken reasonable measures to abate the common nuisance.

Added by Acts 2007, 80th Leg., R.S., Ch. 896 (H.B. 2605), Sec. 1, eff. June 15, 2007.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 266, eff. December 31, 2020.

Sec. 81.005. CANCELLATION OR SUSPENSION OF PERMIT OR LICENSE. (a) The commission or administrator may suspend for not more than 60 days or cancel a permit or license if the commission or administrator finds, after notice and hearing, that the permit or license holder

used or allowed others to use the permitted or licensed premises in a manner that constitutes a common nuisance.

(b) If the commission or administrator receives information from an official under Section 81.003, the commission or administrator shall consider the information and, if the commission or administrator finds the information sufficient to indicate that cancellation or suspension under Subsection (a) may be appropriate, provide notice and hold a hearing under that subsection to determine whether to suspend or cancel the permit or license.

(c) Notwithstanding Section 11.64, the commission or administrator may not give a permit or license holder the opportunity to pay a civil penalty rather than have the permit or license suspended.

Added by Acts 2007, 80th Leg., R.S., Ch. 896 (H.B. 2605), Sec. 1, eff. June 15, 2007.

Sec. 81.006. ORDER IMPOSING ADDITIONAL CONDITIONS ON PERMIT OR LICENSE HOLDER. (a) The commission may, after notice and hearing, issue an order imposing any condition on a permit or license holder that is reasonably necessary to abate a common nuisance on the premises.

(b) The commission may suspend for not more than 60 days or cancel the permit or license of a permit or license holder who violates an order issued under this section. The commission may offer the permit or license holder the opportunity to pay a civil penalty rather than have the permit or license suspended.

Added by Acts 2007, 80th Leg., R.S., Ch. 896 (H.B. 2605), Sec. 1, eff. June 15, 2007.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 267, eff. December 31, 2020.

Sec. 81.007. TEMPORARY ORDER DURING PENDENCY OF PROCEEDING. (a) Before holding a hearing and making a determination under Section 81.004 or 81.005, the commission may, if there is evidence showing a reasonable likelihood that a common nuisance exists on the premises for which the permit or license is held or sought, issue an

order imposing any condition on the permit or license holder or the applicant for the permit or license that is reasonably necessary to abate a common nuisance on the premises. An order issued under this section is effective until:

(1) the expiration of the time for appealing the determination under Section 81.004 or 81.005; or

(2) if the determination is appealed, until all appeals are finally decided.

(b) A hearings officer may issue an order under this section on the hearings officer's own motion or the motion of a person listed in Section 81.003 or, for an original or renewal permit or license application, any individual entitled to protest the issuance of the original or renewal permit or license.

(b-1) If an individual who is entitled to protest the issuance of the original or renewal permit or license files a motion for a temporary order under this section, the commission may not issue a temporary order without conducting a hearing.

(c) The commission may impose any sanction on a person who violates an order issued under Subsection (a) that is necessary to secure compliance with the order.

(d) A hearing under this section must be held not later than the 10th day after the date notice is served on all interested parties. Failure to hold a hearing in the time prescribed by this subsection does not invalidate an order issued under this section.

(e) A person who requests an order under this section may not be required to post security for costs in connection with the application or any hearing conducted as a result of the application.

Added by Acts 2007, 80th Leg., R.S., Ch. 896 (H.B. 2605), Sec. 1, eff. June 15, 2007.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 268, eff. December 31, 2020.

TITLE 4. REGULATORY AND PENAL PROVISIONS
CHAPTER 101. GENERAL CRIMINAL PROVISIONS
SUBCHAPTER A. PROCEDURAL PROVISIONS

Sec. 101.01. RESTRAINING ORDERS AND INJUNCTIONS. (a) If a credible person by affidavit informs the attorney general or a county

or district attorney that a person is violating or is about to violate a provision of this code, or that a permit or license was wrongfully issued, the attorney general or county or district attorney shall begin proceedings in district court to restrain the person from violating the code or operating under the permit or license.

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

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

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

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

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

Sec. 101.02. ARREST WITHOUT WARRANT. A peace officer may arrest without a warrant any person he observes violating any provision of this code or any rule or regulation of the commission. The officer shall take possession of all illicit beverages the person has in his possession or on his premises as provided in Chapter 103 of this code.

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

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

(1) an illicit beverage;

(2) any equipment or instrumentality used, or capable or designed to be used, to manufacture an illicit beverage;

(3) a vehicle or instrumentality used or to be used for the illegal transportation of an illicit beverage;

(4) unlawful equipment or materials used or to be used in the illegal manufacturing of an illicit beverage;

(5) a forged or counterfeit stamp, die, plate, official signature, certificate, evidence of tax payment, license, permit, or other instrument pertaining to this code; or

(6) any instrumentality or equipment, or parts of either of them, used or to be used, or designed or capable of use, to manufacture, print, etch, indite, or otherwise make a forged or counterfeit instrument covered by Subdivision (5) of this subsection.

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

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

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

(e) This section does not require a peace officer to obtain a search warrant to search premises covered by a license or permit.

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

Sec. 101.04. CONSENT TO INSPECTION; PENALTY. (a) By accepting a license or permit, the holder consents to the commission, an

authorized representative of the commission, or a peace officer entering the licensed premises at any time to conduct an investigation or inspect the premises for the purpose of performing any duty imposed by this code.

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

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

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

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

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

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

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

Sec. 101.07. DUTY OF PEACE OFFICERS. All peace officers in the state, including those of cities, counties, and state, shall enforce the provisions of this code and cooperate with and assist the commission in detecting violations and apprehending offenders.

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

Sec. 101.08. DUTY OF COUNTY COURT. When a violation of this code occurs, the county court shall make a recommendation to the commission as to cancellation or suspension of any permit or license connected with the violation.

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

Sec. 101.09. REPORTS OF CONVICTIONS. Every county and district clerk in the state shall furnish the commission or its representative, on request, a certified copy of the judgment of conviction and of the information against a person convicted of a violation of this code. The clerk may not charge a fee for furnishing the copy.

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

SUBCHAPTER B. OFFENSES RELATING TO DRY AREAS

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

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

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

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

Sec. 101.33. DELIVERY OF LIQUOR IN DRY AREA. Section 107.03 of this code relates to the delivery of liquor in a dry area.

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

SUBCHAPTER C. CONTAINERS

Text of section effective until September 1, 2021

Sec. 101.41. CONTAINERS, PACKAGING, AND DISPENSING EQUIPMENT OF BEER: LABELS. (a) No manufacturer or distributor, directly or indirectly or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may manufacture, sell, or otherwise introduce into commerce any container, packaging, or dispensing equipment of beer that does not meet the requirements of this section.

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

(c) The label of a container of beer must state the net contents in terms of United States liquor measure.

(d) No container, packaging material, or dispensing equipment may bear a label or imprint that:

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

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

(3) is untrue in any respect; or

(4) by ambiguity, omission, or inference tends to create a misleading impression, or causes or is calculated to cause deception of the consumer with respect to the product.

Acts 1977, 65th Leg., p. 493, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 61, eff. Sept. 1, 1993.
Amended by:

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

Text of section effective on September 1, 2021

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

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

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

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

(2) the alcohol content by volume.

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

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

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

(3) is untrue in any respect; or

(4) by ambiguity, omission, or inference tends to create a misleading impression, or causes or is calculated to cause deception of the consumer with respect to the product.

Acts 1977, 65th Leg., p. 493, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 61, eff. Sept. 1, 1993.
Amended by:

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

Text of section effective until September 1, 2021

Sec. 101.42. RETURNABLE CONTAINER: ACCEPTANCE BY ANOTHER MANUFACTURER. No manufacturer of beer may purchase, accept as a

return, or use a barrel, half-barrel, keg, case, or bottle permanently branded or imprinted with the name of another manufacturer.

Acts 1977, 65th Leg., p. 494, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 272, eff. September 1, 2021.

Text of section effective on September 1, 2021

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

Acts 1977, 65th Leg., p. 494, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 272, eff. September 1, 2021.

Sec. 101.43. MISBRANDING OF BREWERY PRODUCT.

Text of subsection effective until September 1, 2021

(a) No manufacturer or distributor, directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may sell or otherwise introduce into commerce a brewery product that is misbranded.

Text of subsection effective on September 1, 2021

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

(b) A product is misbranded if:

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

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

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

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

Acts 1977, 65th Leg., p. 494, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 273, eff. September 1, 2021.

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

Acts 1977, 65th Leg., p. 494, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 5 (S.B. 351), Sec. 1, eff. April 21, 2011.
Acts 2015, 84th Leg., R.S., Ch. 168 (H.B. 2022), Sec. 1, eff. May 28, 2015.

Sec. 101.46. CONTAINERS OF LIQUOR: MINIMUM CAPACITIES. (a) Except as provided by Subsections (b), (c), and (d), no person may import, sell, or possess with intent to sell any liquor in a container with a capacity of less than 20 milliliters. A container of liquor offered for sale that has a capacity of less than six fluid ounces must substantially conform to the labeling requirements of the Bureau of Alcohol, Tobacco, and Firearms for larger containers in which liquor is sold. Holders of distiller's or rectifier's permits wishing to sell liquor bottled in containers of less than six fluid ounces to wholesalers must sell such containers of liquor to wholesalers in units of unbroken, sealed cases. Wholesalers shall sell liquor bottled in containers of less than six fluid ounces to package stores in units of unbroken, sealed cases.

Text of subsection effective until September 1, 2021

(b) Subsection (a) of this section does not apply to permittees or licensees while engaged in supplying airline beverage, mixed beverage, or passenger bus beverage permittees, nor to the possession

or sale of liquor by an airline beverage, mixed beverage, or passenger bus beverage permittee, but none of the permittees or licensees covered by this subsection may possess liquor in a container with a capacity of less than one fluid ounce.

Text of subsection effective on September 1, 2021

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

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

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

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

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

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

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

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

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

Text of section effective until September 1, 2021

Sec. 101.48. COMMISSION'S REGULATORY AUTHORITY. Sections 5.39 and 5.40 of this code relate to the commission's authority to regulate liquor containers and beer container deposits.

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

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

Text of section effective on September 1, 2021

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

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

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

SUBCHAPTER D. MISCELLANEOUS OFFENSES

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

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

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

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

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

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

Acts 1977, 65th Leg., p. 495, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 2003, 78th Leg., ch. 508, Sec. 1, eff. Sept. 1, 2003.
Amended by:

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

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

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

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

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

(1) any compound made from synthetic materials;

(2) substandard wines;

(3) imitation wines; or

(4) must concentrated at any time to more than 80 degrees Balling.

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

1999.

Text of section effective until September 1, 2021

Sec. 101.66. BEVERAGES OF CERTAIN ALCOHOL CONTENT PROHIBITED. No person may manufacture, sell, barter, or exchange a beverage that contains alcohol in excess of one-half of one percent by volume and not more than four percent of alcohol by weight, except beer, wine coolers, and spirit coolers.

Acts 1977, 65th Leg., p. 495, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 60, eff. Sept. 1, 1993.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 276, eff. September 1, 2021.

Text of section effective on September 1, 2021

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

Acts 1977, 65th Leg., p. 495, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 60, eff. Sept. 1, 1993.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 276, eff. September 1, 2021.

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

for the product.

Text of subsection effective until September 1, 2021

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

Text of subsection effective on September 1, 2021

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

Text of subsection effective until September 1, 2021

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

Text of subsection effective on September 1, 2021

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

(d) On registration of a certificate of label approval issued by the United States Alcohol and Tobacco Tax and Trade Bureau, the commission shall approve the product under this section and issue a letter to that effect to the licensee unless the commission determines the product, despite having a valid federal certificate of label approval, would create a public safety concern, create a cross-tier violation, or otherwise violate this code.

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

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

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

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

(2) registering alcoholic beverage products that are not

eligible to receive a certificate of label approval issued by the United States Alcohol and Tobacco Tax and Trade Bureau; and

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

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

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

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

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

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

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

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

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

Text of section effective until September 1, 2021

Sec. 101.6701. LABEL APPROVAL NOT REQUIRED FOR CERTAIN MALT BEVERAGES. (a) This section applies only to:

(1) the holder of a brewer's permit authorized under Section 12.052 to sell ale produced on the brewer's premises under the permit to ultimate consumers on the brewer's premises for responsible consumption on the brewer's premises and for off-premises consumption; and

(2) the holder of a manufacturer's license authorized under Section 62.122 to sell beer produced on the manufacturer's premises under the license to ultimate consumers on the manufacturer's

premises for responsible consumption on the manufacturer's premises and for off-premises consumption.

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

(c) A permit or license holder who sells beer, ale, or malt liquor under Subsection (b) shall:

(1) post in a conspicuous place on the permit or license holder's premises the alcohol content of the beer, ale, or malt liquor in percentage of alcohol by volume; and

(2) provide in writing to an ultimate consumer who purchases beer, ale, or malt liquor for off-premises consumption:

(A) the product name of the beer, ale, or malt liquor; and

(B) the alcohol content of the beer, ale, or malt liquor in percentage of alcohol by volume.

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

(1) writes the product name and alcohol content on the container of the beer, ale, or malt liquor; or

(2) applies a label with the product name and alcohol content to the container of the beer, ale, or malt liquor.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 278(a), eff. September 1, 2019.

Text of section effective on September 1, 2021

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

(b) Notwithstanding Sections 101.41 and 101.67 or any other law, a license holder to whom this section applies may sell malt

beverages to ultimate consumers for consumption on the license holder's premises or for off-premises consumption without receiving label approval for the malt beverages.

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

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

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

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

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

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

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

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

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

Sec. 101.671. PRIOR APPROVAL OF DISTILLED SPIRITS AND WINE. (a) Before an authorized permittee may ship distilled spirits or wine into the state or sell distilled spirits or wine within the state, the permittee must register the distilled spirits or wine with the commission and provide proof that the permittee is the primary American source of supply for purposes of Section 37.10. Except for rare or vintage wine that is acquired at auction and for which no certificate is available, the registration application must include a certificate of label approval issued by the United States Alcohol and Tobacco Tax and Trade Bureau for the product. Rare or vintage wine purchased at auction and registered by the commission under this subsection must comply with all other provisions of this code, including provisions regarding the sale, purchase, importation, and distribution of that wine.

(b) On registration of a certificate of label approval issued by the United States Alcohol and Tobacco Tax and Trade Bureau, the

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

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

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

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

(1) accepting:

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

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

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

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

(f) The rules adopted under this section may not require

testing for alcohol content as part of the process for registering an alcoholic beverage with the commission.

Added by Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. 904), Sec. 21, eff. September 1, 2007.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1181 (S.B. 950), Sec. 2, eff. September 1, 2013.
Acts 2015, 84th Leg., R.S., Ch. 440 (H.B. 1348), Sec. 1, eff. September 1, 2015.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 279, eff. December 31, 2020.

Sec. 101.68. CONSIGNMENT SALE PROHIBITED. A person commits an offense if he is a party to, or directly or indirectly interested in or connected with, a consignment sale of an alcoholic beverage.

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

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

Acts 1977, 65th Leg., p. 496, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.007, eff. September 1, 2009.
Acts 2019, 86th Leg., R.S., Ch. 850 (H.B. 2792), Sec. 1, eff. September 1, 2019.

Sec. 101.70. COMMON NUISANCE. (a) A room, building, boat, structure, or other place where alcoholic beverages are sold, bartered, manufactured, stored, possessed, or consumed in violation of this code or under circumstances contrary to the purposes of this

code, the beverages themselves, and all property kept or used in the place, are a common nuisance. A person who maintains or assists in maintaining the nuisance commits an offense.

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

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

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

(1) that this code will not be violated;

(2) that no person will be permitted to resort to the place to drink alcoholic beverages in violation of this code; and

(3) that the defendant will pay all fines, costs, and damages assessed against him for any violation of this code.

(d) On appeal, the judgment may not be superseded except on filing an appeal bond in the penal sum of not more than $500, in addition to the bond for costs of the appeal. That bond must be approved by the trial court and must be posted before the judgment of the court may be superseded on appeal. The bond must be conditioned that if the judgment of the trial court is finally affirmed it may be forfeited in the same manner and for any cause for which a bond required on final judgment may be forfeited for an act committed during the pendency of an appeal.

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

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

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

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

Sec. 101.72. CONSUMPTION OF ALCOHOLIC BEVERAGE ON PREMISES LICENSED FOR OFF-PREMISES CONSUMPTION.

Text of subsection effective until September 1, 2021

(a) A person commits an offense if the person knowingly consumes liquor or beer on the premises of a holder of a wine and beer retailer's off-premise permit or a retail dealer's off-premise license.

Text of subsection effective on September 1, 2021

(a) A person commits an offense if the person knowingly consumes liquor or malt beverages on the premises of a holder of a wine and malt beverage retailer's off-premise permit or a retail dealer's off-premise license.

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

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

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

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

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

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

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

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

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

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

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

Added by Acts 1989, 71st Leg., ch. 238, Sec. 41, eff. Jan. 1, 1990. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.727, eff. Sept. 1, 2001.

Sec. 101.75. CONSUMPTION OF ALCOHOLIC BEVERAGES NEAR SCHOOLS.

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

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

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

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

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 63, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 260, Sec. 6, eff. May 30, 1995; Acts 2001, 77th Leg., ch. 388, Sec. 1, eff. May 28, 2001.

Sec. 101.76. UNLAWFUL DISPLAY OR USE OF PERMIT OR LICENSE. (a) A person commits an offense if the person knowingly allows another person to display or use a permit or license issued by the commission in any manner not allowed by law.

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

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

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

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

CHAPTER 102. INTRA-INDUSTRY RELATIONSHIPS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 102.01. TIED HOUSE PROHIBITED. (a) In this section, "tied house" means any overlapping ownership or other prohibited relationship between those engaged in the alcoholic beverage industry

at different levels, that is, between a manufacturer and a wholesaler or retailer, or between a wholesaler and a retailer, as the words "wholesaler," "retailer," and "manufacturer" are ordinarily used and understood, regardless of the specific names given permits under Subtitle A, Title 3, of this code.

(b) In considering an original or renewal application for a permit issued under Subtitle A, Title 3, of this code, the commission or administrator may make any investigation or request any additional information necessary to enforce this section and to provide strict adherence to a general policy of prohibiting the tied house and related practices. The activities prohibited by this section are unfair competition and unlawful trade practices.

(c) No person having an interest in a permit issued under Subtitle A, Title 3, of this code may secure or hold, directly or indirectly, an ownership interest in the business or corporate stocks, including a stock option, convertible debenture, or similar interest, in a permit or business of a permittee of a different level who maintains licensed premises in Texas.

(d) No person may act or serve as officer, director, or employee of the businesses of permittees at different levels.

(e) No permittee may own the premises, fixtures, or equipment of a permittee of a different level.

(f) No permittee may secure or in any manner obtain the use of any premises, fixtures, or equipment on the credit of a permittee of a different level.

(g) No permittee may loan to, or by means of his credit secure a loan for, a permittee of a different level. If a permittee secures a loan from a source outside the state, there is a presumption of a tied house relationship or subterfuge, and the permittee securing the loan has the burden of showing that he has not violated this section.

(h) No permittee may enter with a permittee of a different level or with another person or legal entity into a conspiracy or agreement to control or manage, financially or administratively, directly or indirectly, in any form or degree, the business or interests of a permittee of a different level.

(i) No permittee may enter with another permittee into any type of profit-sharing agreement or any agreement relating to the repurchase of any assets or any agreement attempting to effectuate the shipment or delivery of an alcoholic beverage on consignment.

(j) On finding that a person has violated any provision of

Subsections (c) through (i) of this section, the commission or administrator shall suspend for not less than six months or cancel the permit of any permittee involved. A person who held or had an interest in a permit cancelled under this subsection is ineligible to hold or have an interest in a permit for one year after the cancellation.

(k) This section does not apply to the application for renewal of a permit held by an applicant who was engaged in the legal alcoholic beverage business in this state under a charter or permit before August 24, 1935, or to an application for a nonresident seller's or wholesaler's permit held by an applicant who continuously has been the holder of a permit of that type since January 1, 1941.

Acts 1977, 65th Leg., p. 498, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 102.02. PROVIDING SAMPLES. Notwithstanding any other provision of this code, the holder of a wholesaler's permit or the holder's agent, representative, or employee may furnish or give a sample of liquor to a holder of a permit authorizing the sale of that category of alcoholic beverage at retail if the retail permittee has not previously purchased that brand from that wholesaler permittee. The wholesaler may give the retail permittee not more than 750 milliliters of any brand of distilled spirits, not more than three liters of any brand of wine in that package, and not more than one six-pack of any other alcoholic beverage so packaged. The retail permittee or the permittee's agent, servant, or employee may sample the product on the licensed premises only if the wholesaler or the wholesaler's agent, servant, or employee is present.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 64, eff. Sept. 1, 1993.

Sec. 102.03. PERSONS BARRED FROM INTEREST IN PREMISES OF RETAIL LIQUOR OUTLET.

Text of subsection effective until September 1, 2021

(a) This section applies to the holder of a brewer's, distiller's and rectifier's, winery, wholesaler's, class B wholesaler's, or wine bottler's permit.

Text of subsection effective on September 1, 2021

(a) This section applies to the holder of a distiller's and rectifier's, winery, wholesaler's, or class B wholesaler's permit.

(b) No holder of a permit named in Subsection (a) of this section may directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, own an interest of any kind in the premises where a package store permittee, wine only package store permittee, or mixed beverage permittee conducts his business.

Acts 1977, 65th Leg., p. 499, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 2118, ch. 819, Sec. 9, eff. June 13, 1979; Acts 1983, 68th Leg., p. 1352, ch. 278, Sec. 52, eff. Sept. 1, 1983.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 281, eff. September 1, 2021.

Sec. 102.04. PERSONS BARRED FROM INTEREST IN MIXED BEVERAGE BUSINESS.

Text of subsection effective until September 1, 2021

(a) This section applies to any person who has an interest in the business of a distiller-rectifier, brewer, wholesaler, class B wholesaler, winery, wine bottler, or local distributor's permittee. This section also applies to the agent, servant, or employee of a person who has an interest in one of those businesses.

Text of subsection effective on September 1, 2021

(a) This section applies to any person who has an interest in the business of a distiller-rectifier, wholesaler, class B wholesaler, winery, or local distributor's permittee. This section also applies to the agent, servant, or employee of a person who has an interest in one of those businesses.

(b) Except as permitted in Section 23.01 of this code, no person to whom this section applies may:

(1) have a direct or indirect interest in the business, premises, equipment, or fixtures of a mixed beverage establishment;

(2) furnish or lend any money, service, or other thing of value to a mixed beverage permittee or guarantee the fulfillment of a

financial obligation of a mixed beverage permittee;

(3) enter or offer to enter into an agreement, condition, or system which in effect amounts to the shipment and delivery of alcoholic beverages on consignment;

(4) furnish, rent, lend, or sell to a mixed beverage permittee any equipment, fixtures, or supplies used in the selling or dispensing of alcoholic beverages;

(5) pay or make an allowance to a mixed beverage permittee for a special advertising or distributing service, or allow the permittee an excessive discount;

(6) offer to a mixed beverage permittee a prize, premium, or other inducement, except as permitted by Section 102.07(b) of this code; or

(7) advertise in the convention program or sponsor a function at a meeting or convention or a trade association of holders of mixed beverage permits, unless the trade association was incorporated before 1950.

Acts 1977, 65th Leg., p. 499, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 1183, ch. 453, Sec. 9, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 2118, ch. 819, Sec. 10, eff. June 13, 1979; Acts 1983, 68th Leg., p. 1352, ch. 278, Sec. 53, eff. Sept. 1, 1983.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 282, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 102.05. HOTEL: MULTIPLE INTERESTS AUTHORIZED. A hotel may hold a package store permit, mixed beverage permit, wine and beer retailer's permit, and retail dealer's license if the businesses are completely segregated from each other.

Acts 1977, 65th Leg., p. 499, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 283, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 102.05. HOTEL: MULTIPLE INTERESTS AUTHORIZED. A hotel may hold a package store permit, mixed beverage permit, wine and malt beverage retailer's permit, and retail dealer's license if the businesses are completely segregated from each other.

Acts 1977, 65th Leg., p. 499, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 283, eff. September 1, 2021.

Sec. 102.06. RELATIONSHIP BETWEEN AGENT AND PACKAGE STORE. An agent acting under Chapter 35 or 36 may not directly or indirectly have an interest in a package store permit or wine only package store permit or be residentially domiciled with a person who has a financial interest in a package store permit or wine only package store permit.

Acts 1977, 65th Leg., p. 499, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 284, eff. September 1, 2019.

Sec. 102.07. PROHIBITED DEALINGS WITH RETAILER OR CONSUMER.

Text of subsection effective until September 1, 2021

(a) Except as provided in Subsections (b), (d), and (g), no person who owns or has an interest in the business of a distiller, brewer, rectifier, wholesaler, class B wholesaler, winery, or wine bottler, nor the agent, servant, or employee of such a person, may:

(1) own or have a direct or indirect interest in the business, premises, equipment, or fixtures of a retailer;

(2) furnish, give, or lend any money, service, or thing of value to a retailer;

(3) guarantee a financial obligation of a retailer;

(4) make or offer to enter an agreement, condition, or system which will in effect amount to the shipment and delivery of alcoholic beverages on consignment;

(5) furnish, give, rent, lend, or sell to a retail dealer any equipment, fixtures, or supplies to be used in selling or dispensing alcoholic beverages, except that alcoholic beverages may be packaged in combination with other items if the package is designed to be delivered intact to the ultimate consumer and the additional items have no value or benefit to the retailer other than that of having the potential of attracting purchases and promoting sales;

(6) pay or make an allowance to a retailer for a special advertising or distribution service;

(7) allow an excessive discount to a retailer; or

(8) offer a prize, premium, gift, or similar inducement to a retailer or to the agent, servant, or employee of a retailer.

Text of subsection effective on September 1, 2021

(a) Except as provided in Subsections (b), (d), and (g), a person who owns or has an interest in the business of a distiller, rectifier, wholesaler, class B wholesaler, or winery, or the agent, servant, or employee of such a person, may not:

(1) own or have a direct or indirect interest in the business, premises, equipment, or fixtures of a retailer;

(2) furnish, give, or lend any money, service, or thing of value to a retailer;

(3) guarantee a financial obligation of a retailer;

(4) make or offer to enter an agreement, condition, or system which will in effect amount to the shipment and delivery of alcoholic beverages on consignment;

(5) furnish, give, rent, lend, or sell to a retail dealer any equipment, fixtures, or supplies to be used in selling or dispensing alcoholic beverages, except that alcoholic beverages may be packaged in combination with other items if the package is designed to be delivered intact to the ultimate consumer and the additional items have no value or benefit to the retailer other than that of having the potential of attracting purchases and promoting sales;

(6) pay or make an allowance to a retailer for a special advertising or distribution service;

(7) allow an excessive discount to a retailer; or

(8) offer a prize, premium, gift, or similar inducement to a retailer or to the agent, servant, or employee of a retailer.

(b) A permittee covered by Subsection (a) of this section may

furnish to a retailer without cost advertising specialties showing the name of the product advertised. The total value of all advertising specialties for any one brand furnished to a retailer in any one calendar year may not exceed $78. Not more than once a year, the administrator on the administrator's own motion or on the motion of the permittee may increase or decrease the total amount of advertising specialties permitted under this subsection by not more than six percent based on the consumer price index and previous adjustments, if any. For the purposes of this subsection, "consumer price index" means the annual average over a calendar year of the consumer price index (all items, United States city average) published monthly by the Bureau of Labor Statistics, United States Department of Labor, or its successor in function. Permittees covered by Subsection (a) of this section may not pool or combine their dollar limitations to provide a retailer with advertising specialties valued in excess of the maximum permitted under this subsection.

(c) No person who owns or has an interest in the business of a package store or wine only package store, nor the agent, servant, or employee of the person, may allow an excessive discount on liquor.

(d) A permittee covered under Subsection (a) may offer prizes, premiums, or gifts to a consumer. The use of rebates or coupons redeemable by the public for the purchase of alcoholic beverages is prohibited. The holder of a winery permit may furnish to a retailer without cost recipes, recipe books, book matches, cocktail napkins, or other advertising items showing the name of the winery furnishing the items or the brand name of the product advertised if the individual cost of the items does not exceed $1.

(e) A permittee covered under Subsection (a) may conduct a sweepstakes promotion. A purchase or entry fee may not be required of any person to enter a sweepstakes event authorized under this subsection. A person affiliated with the alcoholic beverage industry may not receive a prize from a sweepstakes promotion.

Text of subsection effective until September 1, 2021

(f) Notwithstanding Subsection (a) of this section, Section 108.05, or any other provision of this code, a holder of a brewer's permit, nonresident brewer's permit, distiller's and rectifier's permit, winery permit, nonresident seller's permit, manufacturer's license, or nonresident manufacturer's license may, in order to promote the brand name of the permittee's or licensee's products,

contract with a person licensed under Subtitle A-1, Title 13, Occupations Code (Texas Racing Act), for on-site advertising signs, for advertising in programs, and to supplement purses for races even though the licensees under that subtitle or the owners or operators of the racing facilities also hold a mixed beverage permit or other permit or license under this code. In addition, a permittee or licensee described by this subsection may contract for off-site advertising promoting specific races. A part of the cost of an advertisement or promotion authorized by this section may not be charged to or paid, directly or indirectly, by the holder of a wholesale permit, general class B wholesaler's permit, local class B wholesaler's permit, local distributor's permit, general distributor's license, or local distributor's license, except through the price paid by that holder for products purchased from the holder's supplier.

Text of subsection effective on September 1, 2021

(f) Notwithstanding Subsection (a), Section 108.05, or any other provision of this code, a holder of a distiller's and rectifier's permit, winery permit, nonresident seller's permit, brewer's license, or nonresident brewer's license may, in order to promote the brand name of the permittee's or licensee's products, contract with a person licensed under Subtitle A-1, Title 13, Occupations Code (Texas Racing Act), for on-site advertising signs, for advertising in programs, and to supplement purses for races even though the licensees under that subtitle or the owners or operators of the racing facilities also hold a mixed beverage permit or other permit or license under this code. In addition, a permittee or licensee described by this subsection may contract for off-site advertising promoting specific races. A part of the cost of an advertisement or promotion authorized by this section may not be charged to or paid, directly or indirectly, by the holder of a wholesaler's permit, general class B wholesaler's permit, local distributor's permit, or general distributor's license, except through the price paid by that holder for products purchased from the holder's supplier.

Text of subsection effective until September 1, 2021

(g) Subsection (a) does not prohibit a permittee covered under Subsection (a) from prearranging or preannouncing a promotional activity otherwise permitted by this code with a retailer about a

promotional activity to be held on the retailer's premises. Notwithstanding any other provision, a permittee may:

(1) preannounce a promotion to a consumer; or

(2) preannounce the purchase of wine, distilled spirits, ale, or malt liquor to a consumer.

Text of subsection effective on September 1, 2021

(g) Subsection (a) does not prohibit a permittee covered under Subsection (a) from prearranging or preannouncing a promotional activity otherwise permitted by this code with a retailer about a promotional activity to be held on the retailer's premises. Notwithstanding any other provision, a permittee may:

(1) preannounce a promotion to a consumer; or

(2) preannounce the purchase of wine or distilled spirits to a consumer.

Acts 1977, 65th Leg., p. 500, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2118, ch. 819, Sec. 11, eff. June 13, 1979; Acts 1989, 71st Leg., ch. 859, Sec. 1, eff. June 14, 1989; Acts 1993, 73rd Leg., ch. 934, Sec. 65, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 424, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 236 (S.B. 1471), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1022 (H.B. 1541), Sec. 1, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. 1090), Sec. 15, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 2.01, eff. April 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 285, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 286, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 287, eff. September 1, 2021.

Sec. 102.071. SALE OF GLASSWARE AND NONALCOHOLIC BEVERAGES. (a) In this section:

(1) "Branded glassware" means glassware that contains the

name, emblem, or logo of or any reference to a brand of alcoholic beverage.

(2) "Unbranded glassware" means glassware that does not contain the name, emblem, or logo of or any reference to a brand of alcoholic beverage.

(b) Notwithstanding Sections 102.04 and 102.07 or any other provision of this code, the holder of a wholesaler's permit who is primarily engaged in the wholesale sale of distilled spirits and wine may sell branded or unbranded glassware to retailers, provided that the glassware is not marketed or sold in a manner:

(1) to influence a retailer to purchase any quantity of alcoholic beverages;

(2) to affect the terms by which a retailer may purchase alcoholic beverages; or

(3) that threatens the independence of a retailer.

(c) Section 102.32 applies to payment for unbranded glassware or glassware bearing the name, emblem, or logo of a brand of distilled spirits or wine by the holder of a wholesaler's permit under Subsection (b).

Text of subsection effective until September 1, 2021

(d) Sections 61.73 and 102.31 apply to payment for glassware bearing the name, emblem, or logo of a brand of malt beverage by the holder of a wholesaler's permit or a distributor's license.

Text of subsection effective on September 1, 2021

(d) Sections 61.73 and 102.31 apply to payment for glassware bearing the name, emblem, or logo of a brand of malt beverage by the holder of a distributor's license.

Text of subsection effective until September 1, 2021

(e) For the purposes of Subchapters C and D, the sale, by the holder of a distributor's license, of a nonalcoholic beverage produced or sold by a manufacturer of malt beverages and that bears the name, emblem, logo, or brand of a manufacturer of malt beverages is the same as a sale of beer.

Text of subsection effective on September 1, 2021

(e) For the purposes of Subchapters C and D, the sale, by the holder of a distributor's license, of a nonalcoholic beverage produced or sold by a brewer of malt beverages and that bears the name, emblem, logo, or brand of a brewer of malt beverages is the same as a sale of malt beverages.

Added by Acts 2009, 81st Leg., R.S., Ch. 196 (H.B. 3413), Sec. 1, eff. September 1, 2009.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 288, eff. September 1, 2021.

Sec. 102.08. WHOLESALER: LIQUOR MANUFACTURED BY AFFILIATE. (a) No holder of a wholesaler's permit may own, possess, or sell any liquor manufactured, distilled, or rectified by a person, firm, or corporation that is directly or indirectly affiliated with the wholesale permittee, regardless of whether the affiliation is corporate, by management, direction, or control, or through an officer, director, agent, or employee.

(b) This section does not apply to a holder of a wholesaler's permit who held the permit on January 1, 1941, and has held it continuously since that date, who was on that date selling liquor manufactured, distilled, or rectified by such an affiliate.

Acts 1977, 65th Leg., p. 500, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 102.09. WHOLESALER: INTEREST IN DISTILLER AND RECTIFIER. No holder of a wholesaler's permit may be affiliated with the holder of a distiller's and rectifier's permit, or with a person, firm, or corporation engaged in distilling or rectifying liquor inside or outside this state, regardless of whether the affiliation is direct or indirect, through an officer, director, agent, or employee, or by management, direction, or control.

Acts 1977, 65th Leg., p. 500, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1353, ch. 278, Sec. 54, eff. Sept. 1, 1983.

Sec. 102.10. DISTILLER AND RECTIFIER: INTEREST IN WHOLESALER. (a) This section applies to the following:

(1) a holder of a distiller's and rectifier's permit;

(2) a person, firm, or corporation engaged in distilling or rectifying liquor, either inside or outside this state;

(3) an officer, director, agent, or employee of an entity

named in Subdivision (1) or (2) of this subsection; or

(4) an affiliate of an entity named in Subdivision (1) or (2) of this subsection, regardless of whether the affiliation is corporate or by management, direction, or control.

(b) No entity named in Subsection (a) of this section may have any interest in the permit, business, assets, or corporate stock of a holder of a wholesaler's permit.

Acts 1977, 65th Leg., p. 500, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 1353, ch. 278, Sec. 55, eff. Sept. 1, 1983.

Text of section effective until September 1, 2021

Sec. 102.11. MANUFACTURER OR DISTRIBUTOR: PROHIBITED INTERESTS. No manufacturer or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may:

(1) own any interest in the business or premises of a retail dealer of beer;

(2) hold or have an interest in a license to sell brewery products for on-premises consumption, except to the extent that a manufacturer's license permits on-premises consumption.

Acts 1977, 65th Leg., p. 501, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 289, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 102.11. BREWER OR DISTRIBUTOR: PROHIBITED INTERESTS. A brewer or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may not:

(1) own any interest in the business or premises of a retail dealer of malt beverages; or

(2) hold or have an interest in a license to sell brewery products for on-premises consumption, except to the extent that a brewer's license permits on-premises consumption.

Acts 1977, 65th Leg., p. 501, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 289, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 102.12. COMMERCIAL BRIBERY BY MANUFACTURER OR DISTRIBUTOR. No manufacturer or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may give or permit to be given money or any thing of value in an effort to induce agents, employees, or representatives of customers or prospective customers to influence their employers or principals to purchase or contract to purchase brewery products from the manufacturer or distributor or to refrain from buying those products from other persons.

Acts 1977, 65th Leg., p. 501, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 290, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 102.12. COMMERCIAL BRIBERY BY BREWER OR DISTRIBUTOR. A brewer or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may not give or permit to be given money or any thing of value in an effort to induce agents, employees, or representatives of customers or prospective customers to influence their employers or principals to purchase or contract to purchase brewery products from the brewer or distributor or to refrain from buying those products from other persons.

Acts 1977, 65th Leg., p. 501, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 290, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 102.13. EXCLUSIVE OUTLET AGREEMENT AS TO BREWERY PRODUCTS. No manufacturer or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may require, by agreement or otherwise, that a retailer engaged in the sale of brewery products purchase any of those products from him to the total or partial exclusion of the products sold or offered for sale by a competitor or require the retailer to take or dispose of a certain quota of the product.

Acts 1977, 65th Leg., p. 501, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 291, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 102.13. EXCLUSIVE OUTLET AGREEMENT AS TO BREWERY PRODUCTS. A brewer or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may not require, by agreement or otherwise, that a retailer engaged in the sale of brewery products purchase any of those products from the brewer to the total or partial exclusion of the products sold or offered for sale by a competitor or require the retailer to take or dispose of a certain quota of the product.

Acts 1977, 65th Leg., p. 501, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 291, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 102.14. MANUFACTURER OR DISTRIBUTOR: FURNISHING EQUIPMENT OR FIXTURES. (a) No manufacturer or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may furnish, give, rent, lend, or sell any equipment, fixtures, or supplies to a person engaged in selling brewery products for on-premises consumption.

(b) This section does not apply to equipment, fixtures, or

supplies furnished, given, loaned, rented, or sold before November 16, 1935, except that transactions made before that date may not be used as consideration for an agreement made after that date with respect to the purchase of brewery products. If a manufacturer or distributor of brewery products or an agent or employee of one of them removes the equipment, fixtures, or supplies from the premises of the person to whom they were furnished, given, loaned, rented, or sold, the exemption granted by this subsection no longer applies to the equipment, fixtures, or supplies.

(c) Notwithstanding any other provision of this code, a manufacturer or distributor may, with written approval of the administrator, sell for cash devices designed to extract brewery products from legal containers subject to the following conditions:

(1) the legal containers must not exceed a one-eighth barrel capacity and must not be reused or refilled;

(2) the selling price of such devices may be no less than the cost of acquisition to the manufacturer or distributor; and

(3) such devices which extract brewery products from legal containers covered by this section may not be furnished, given, rented, or sold by the manufacturer or distributor to a licensee or permittee authorized to sell or serve brewery products for on-premise consumption, or to the ultimate consumer.

Acts 1977, 65th Leg., p. 501, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1981, 67th Leg., p. 2664, ch. 719, Sec. 1, eff. June 16, 1981.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 292, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 102.14. BREWER OR DISTRIBUTOR: FURNISHING EQUIPMENT OR FIXTURES. (a) A brewer or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may not furnish, give, rent, lend, or sell any equipment, fixtures, or supplies to a person engaged in selling brewery products for on-premises consumption.

(b) This section does not apply to equipment, fixtures, or supplies furnished, given, loaned, rented, or sold before November

16, 1935, except that transactions made before that date may not be used as consideration for an agreement made after that date with respect to the purchase of brewery products. If a brewer or distributor of brewery products or an agent or employee of one of them removes the equipment, fixtures, or supplies from the premises of the person to whom they were furnished, given, loaned, rented, or sold, the exemption granted by this subsection no longer applies to the equipment, fixtures, or supplies.

(c) Notwithstanding any other provision of this code, a brewer or distributor may, with written approval of the administrator, sell for cash devices designed to extract brewery products from legal containers subject to the following conditions:

(1) the legal containers must not exceed a one-eighth barrel capacity and must not be reused or refilled;

(2) the selling price of such devices may be no less than the cost of acquisition to the brewer or distributor; and

(3) such devices which extract brewery products from legal containers covered by this section may not be furnished, given, rented, or sold by the brewer or distributor to a licensee or permittee authorized to sell or serve brewery products for on-premise consumption, or to the ultimate consumer.

Acts 1977, 65th Leg., p. 501, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1981, 67th Leg., p. 2664, ch. 719, Sec. 1, eff. June 16, 1981.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 292, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 102.15. MANUFACTURER OR DISTRIBUTOR: PROHIBITED DEALINGS WITH RETAILER. (a) Except as provided by Subsection (b), no manufacturer or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may:

(1) furnish, give, or lend any money or other thing of value to a person engaged or about to be engaged in selling brewery products for on-premises or off-premises consumption, or give the person any money or thing of value for his use, benefit, or relief;

or

(2) guarantee the repayment of a loan or the fulfillment of a financial obligation of a person engaged in or about to be engaged in selling beer at retail.

(b) Subsection (a) does not prohibit a manufacturer or distributor from prearranging or preannouncing a promotional activity otherwise permitted by this code with a retailer about a promotional activity to be held on the retailer's premises. Notwithstanding any other provision, a manufacturer or distributor may:

(1) preannounce a promotion to a consumer; or

(2) preannounce the purchase of beer to a consumer.

Acts 1977, 65th Leg., p. 502, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. 1090), Sec. 16, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 293, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 102.15. BREWER OR DISTRIBUTOR: PROHIBITED DEALINGS WITH RETAILER. (a) Except as provided by Subsection (b), a brewer or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may not:

(1) furnish, give, or lend any money or other thing of value to a person engaged or about to be engaged in selling brewery products for on-premises or off-premises consumption, or give the person any money or thing of value for the person's use, benefit, or relief; or

(2) guarantee the repayment of a loan or the fulfillment of a financial obligation of a person engaged in or about to be engaged in selling malt beverages at retail.

(b) Subsection (a) does not prohibit a brewer or distributor from prearranging or preannouncing a promotional activity otherwise permitted by this code with a retailer about a promotional activity to be held on the retailer's premises. Notwithstanding any other provision, a brewer or distributor may:

(1) preannounce a promotion to a consumer; or

(2) preannounce the purchase of malt beverages to a consumer.

Acts 1977, 65th Leg., p. 502, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. 1090), Sec. 16, eff. September 1, 2013.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 293, eff. September 1, 2021.

Sec. 102.16. UNLAWFUL AGREEMENTS. (a) A brewer, distiller and rectifier, winery permittee, or alcoholic beverage manufacturer, or the agent, servant, or employee of any of them, commits an offense if he orally or in writing enters or offers to enter into an agreement or other arrangement with a wholesaler or other person in the state:

(1) by which a person is required or influenced, or that is intended to require or influence a person, to purchase, otherwise obtain, produce, or require a certain volume or quota of business, more or less, of one or more types or brands of alcoholic beverages, either in a certain area, in a certain period of time, or on fulfillment of any condition; or

(2) to require or influence a person, or attempt to require or influence a person, to sell an alcoholic beverage in a manner contrary to law or in a manner calculated to induce a violation of the law.

(b) The commission or administrator shall investigate suspected violations of this section, and if either of them finds or has good reason to believe that this section has been or is being violated, the commission or administrator shall give the affected parties notice of hearing as provided in this code. On finding that a person has violated or is violating a provision of this section, the commission or administrator shall enter an order prohibiting the violator or his agents to directly or indirectly ship any of his goods into the state for a period not to exceed one year. No person may violate that order.

(c) The commission shall adopt necessary rules to effectuate this section.

Acts 1977, 65th Leg., p. 502, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1353, ch. 278, Sec. 56, eff.

Sept. 1, 1983.

Text of section effective until September 1, 2021

Sec. 102.17. CONTRACT FOR SALE OF LIQUOR. A brewer, distiller and rectifier, winery permittee, manufacturer, or nonresident seller of liquor and the holder of a wholesaler's permit may enter into a contract for the sale and purchase of a specified quantity of liquor to be delivered over an agreed period of time, but only if the contract is first submitted to the commission or administrator and found by the commission or administrator not to be calculated to induce a violation of this code.

Acts 1977, 65th Leg., p. 502, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1354, ch. 278, Sec. 57, eff. Sept. 1, 1983.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 294, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 102.17. CONTRACT FOR SALE OF LIQUOR. A distiller and rectifier, winery permittee, or nonresident seller of liquor and the holder of a wholesaler's permit may enter into a contract for the sale and purchase of a specified quantity of liquor to be delivered over an agreed period of time, but only if the contract is first submitted to the commission or administrator and found by the commission or administrator not to be calculated to induce a violation of this code.

Acts 1977, 65th Leg., p. 502, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 1354, ch. 278, Sec. 57, eff. Sept. 1, 1983.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 294, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 102.18. MANUFACTURER: PROHIBITED INTERESTS. (a) This section applies to the following:

(1) a holder of a manufacturer's or nonresident manufacturer's license;

(2) an officer, director, agent, or employee of an entity named in Subdivision (1) of this subsection; or

(3) an affiliate of an entity named in Subdivision (1) of this subsection, regardless of whether the affiliation is corporate or by management, direction, or control.

(b) No entity named in Subsection (a) of this section may have any interest in the license, business, assets, or corporate stock of a holder of a general, local, or branch distributor's license.

Added by Acts 1979, 66th Leg., p. 1973, ch. 777, Sec. 24, eff. Aug. 27, 1979.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 295, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 102.18. BREWER: PROHIBITED INTERESTS. (a) This section applies to the following:

(1) a holder of a brewer's or nonresident brewer's license;

(2) an officer, director, agent, or employee of an entity named in Subdivision (1); or

(3) an affiliate of an entity named in Subdivision (1), regardless of whether the affiliation is corporate or by management, direction, or control.

(b) An entity named in Subsection (a) may not have any interest in the license, business, assets, or corporate stock of a holder of a general or branch distributor's license.

Added by Acts 1979, 66th Leg., p. 1973, ch. 777, Sec. 24, eff. Aug. 27, 1979.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 295, eff. September 1, 2021.

Sec. 102.19. PROMOTIONAL GIFT WINE. A holder of a winery permit may give one or more unopened bottles of Texas-made wine produced or bottled by the winery to a person 21 years of age or older on the premises of a convention center or civic center that holds a mixed beverage permit if no charge is made by the winery or by the mixed beverage permittee for the wine. A recipient of a bottle of wine under this section must take the unopened gift bottle off the premises of the mixed beverage permittee.

Added by Acts 1993, 73rd Leg., ch. 649, Sec. 1, eff. Aug. 30, 1993.

Sec. 102.20. RESTOCKING AND ROTATION OF ALCOHOLIC BEVERAGES AUTHORIZED. Restocking of a display and rotation of alcoholic beverage stock in a retail establishment from the retailer's storeroom, salesroom, display counter, or cooler by a representative of a wholesaler or distributor is lawful. The commission or administrator may publish guidelines regarding this activity as the commission or administrator determines to be necessary.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 66, eff. Sept. 1, 1993.
Renumbered from Alcoholic Beverage Code Sec. 102.19 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(1), eff. Sept. 1, 1995.

Text of section effective until September 1, 2021

Sec. 102.21. CONTINUITY OF CERTAIN PROTECTIONS FOR BEER DISTRIBUTORS. The protections provided to beer distributors by Subchapters C and D apply regardless of whether there is a transfer or change of ownership of a brand at the manufacturing level.

Added by Acts 2009, 81st Leg., R.S., Ch. 894 (S.B. 2580), Sec. 1, eff. September 1, 2009.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 296, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 102.21. CONTINUITY OF CERTAIN PROTECTIONS FOR MALT

BEVERAGE DISTRIBUTORS. The protections provided to malt beverage distributors by Subchapters C and D apply regardless of whether there is a transfer or change of ownership of a brand at the manufacturing level.

Added by Acts 2009, 81st Leg., R.S., Ch. 894 (S.B. 2580), Sec. 1, eff. September 1, 2009.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 296, eff. September 1, 2021.

Sec. 102.22. VERIFICATION OF USE OF FACILITIES.

Text of subsection effective until September 1, 2021

(a) A person who holds a permit issued under Chapter 12 or 13 or a license issued under Chapter 62 or 63 shall verify to the commission on an annual basis that a brewing or manufacturing facility owned or controlled by the permit or license holder is not used to produce malt beverages primarily for a specific retailer or the retailer's affiliates.

Text of subsection effective on September 1, 2021

(a) A person who holds a license issued under Chapter 62 or 63 shall verify to the commission on an annual basis that a brewing facility owned or controlled by the license holder is not used to produce malt beverages primarily for a specific retailer or the retailer's affiliates.

(b) The commission shall adopt a form for the verification required under this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1074 (H.B. 3307), Sec. 9, eff. September 1, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 297, eff. September 1, 2021.

SUBCHAPTER B. REGULATION OF CREDIT TRANSACTIONS

Sec. 102.31. CASH PAYMENT REQUIRED.

Text of subsection effective until September 1, 2021

(a) This section applies to:

(1) the sale of beer or its containers or the original packages in which it is received, packaged, or contained by a distributor's licensee to a retail dealer's on-premise or off-premise licensee, a wine and beer retailer's permittee, or a wine and beer retailer's off-premise permittee; and

(2) the sale of malt beverages by a local distributor's permittee, or by any licensee authorized to sell those beverages for resale, to a mixed beverage or daily temporary mixed beverage permittee.

Text of subsection effective on September 1, 2021

(a) This section applies to:

(1) the sale of malt beverages or malt beverage containers or the original packages in which malt beverages are received, packaged, or contained by a distributor's licensee to a retail dealer's on-premise or off-premise licensee, a wine and malt beverage retailer's permittee, or a wine and malt beverage retailer's off-premise permittee; and

(2) the sale of malt beverages by a local distributor's permittee, or by any licensee authorized to sell those beverages for resale, to a mixed beverage permittee.

(b) No person directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may make a sale covered by this section except for cash on or before delivery to the purchaser.

(c) A person who engages in a subterfuge by which credit is extended to the purchaser violates this code. Acceptance of a postdated check is not a cash sale, but a valid check or draft payable on demand may be accepted as cash. If a check or draft is accepted in payment, it must be deposited in the bank for payment or presented for payment within two days after it is received. If the check or draft is dishonored by the drawee, the licensee or permittee who accepted it shall report that fact to the commission within two days after receiving notice of dishonor. The report shall be on a form prescribed by the commission and shall contain any information the commission requires.

(d) Sundays and legal holidays are not counted in determining time periods under this section.

(e) The commission may promulgate rules to give effect to this

section.

Acts 1977, 65th Leg., p. 502, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 55, ch. 33, Sec. 8, eff. Aug. 27, 1979.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 298, eff. September 1, 2021.

Sec. 102.32. SALE OF LIQUOR: CREDIT RESTRICTIONS. (a) In this section:

Text of subdivision effective until September 1, 2021

(1) "Wholesale dealer" means a wholesaler, class B wholesaler, winery, wine bottler, or local distributor's permittee.

Text of subdivision effective on September 1, 2021

(1) "Wholesale dealer" means a wholesaler, class B wholesaler, winery, or local distributor's permittee.

Text of subdivision effective until September 1, 2021

(2) "Retailer" means a package store, wine only package store, wine and beer retailers, wine and beer retailer's off-premise, or mixed beverage permittee, any other retailer, or a private club registration permittee. For purposes of this section, the holder of a winery permit issued under Chapter 16 is a retailer when the winery permit holder purchases wine from the holder of a wholesaler's permit issued under Chapter 19 for resale to ultimate consumers in unbroken packages.

Text of subdivision effective on September 1, 2021

(2) "Retailer" means a package store, wine only package store, wine and malt beverage retailers, wine and malt beverage retailer's off-premise, or mixed beverage permittee, any other retailer, or a private club registration permittee. For purposes of this section, the holder of a winery permit issued under Chapter 16 is a retailer when the winery permit holder purchases wine from the holder of a wholesaler's permit issued under Chapter 19 for resale to ultimate consumers in unbroken packages.

(3) "Month" means a calendar month.

(b) No wholesale dealer may sell and no retailer may purchase liquor except for cash or on terms requiring payment by the retailer

in accordance with Subsection (c) of this section.

(b-1) A wholesale dealer who accepts a check or draft as payment from a retailer for the purchase of liquor must deposit the check or draft in the bank for payment or present the check or draft for payment within five business days after it is received.

(c) On purchases made from the 1st through 15th day of a month, payment must be made on or before the 25th day of that month. On purchases made on the 16th through the last day of a month, payment must be made on or before the 10th day of the following month. An account is not delinquent if payment is received by the wholesale dealer not later than the fourth business day after the date payment is due under this subsection.

(d) Each delivery of liquor shall be accompanied by an invoice giving the date of purchase. If a retailer becomes delinquent in the payment of an account for liquor, the wholesale dealer immediately shall report that fact in writing, including by electronic mail or facsimile transmission, to the commission or administrator. A wholesale dealer may not sell any liquor to a retailer who is delinquent until the delinquent account is paid in full and cleared from the records of the commission. An account becomes delinquent if it is not paid when it is required to be paid under Subsection (c).

(d-1) The commission or administrator may not accept the voluntary cancellation or suspension of a permit or allow a permit to be renewed or transferred if the permit holder is delinquent in the payment of an account for liquor under this section. A person whose permit is canceled by the commission or whose permit has expired is not eligible to hold any other permit or license under this code until the person has cured any delinquency of the person under this section.

(e) A wholesale dealer who accepts a postdated check, a note or memorandum, or participates in a scheme to assist a retailer in the violation of this section commits an offense.

(f) The commission shall adopt rules and regulations to give effect to this section.

Acts 1977, 65th Leg., p. 503, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 2119, ch. 819, Sec. 12, eff. June 13, 1979.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. 904), Sec. 22, eff.

September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 78 (H.B. 2560), Sec. 1, eff. May 20, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 130 (H.B. 2012), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 368 (H.B. 2806), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 969 (H.B. 1953), Sec. 1, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 299, eff. September 1, 2021.

Text of subchapter effective until September 1, 2021

Text of subchapter effective until September 1, 2021

SUBCHAPTER C. TERRITORIAL LIMITS ON SALE OF BEER

Text of section effective until September 1, 2021

Sec. 102.51. SETTING OF TERRITORIAL LIMITS. (a) Each holder of a manufacturer's or nonresident manufacturer's license shall designate territorial limits in this state within which the brands of beer the licensee manufactures may be sold by general, local, or branch distributor's licensees.

(b) Each holder of a general, local, or branch distributor's license shall enter into a written agreement with each manufacturer from which the distributor purchases beer for distribution and sale in this state setting forth the sales territory within which each brand of beer purchased by that distributor may be distributed and sold. No holder of a general, local, or branch distributor's license shall make any sales of any brand of beer outside the sales territory specified in the written agreement. No such agreement shall interfere with the rights of retailers to purchase beer as provided in Section 102.53. A manufacturer may not assign all or any part of the same sales territory to more than one distributor. A copy of the agreement and any amendments to it shall be filed with the administrator.

(c) This Act is promulgated pursuant to the authority of the state under the provisions of the Twenty-first Amendment to the United States Constitution to promote the public interest in the fair, efficient, and competitive distribution of beer, to increase

competition in such areas, and to assure product quality control and accountability by allowing manufacturers to assign sales territories within this state.

Acts 1977, 65th Leg., p. 504, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5229, ch. 959, Sec. 1, eff. Aug. 29, 1983; Acts 1995, 74th Leg., ch. 152, Sec. 1, eff. May 19, 1995. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 301, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 102.52. RIGHTS OF DISTRIBUTORS. Nothing in Section 102.51 of this code limits or alters the right of a holder of a general, local, or branch distributor's license to sell beer to any other holder of a general, local, or branch distributor's license, except that a distributor who has purchased beer from another distributor may distribute and sell the beer only within a territory for which the manufacturer of the brand has designated that it may be sold by the general, local, or branch distributor making the purchase.

Acts 1977, 65th Leg., p. 504, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 55, ch. 33, Sec. 9, eff. Aug. 27, 1979; Acts 1993, 73rd Leg., ch. 934, Sec. 67, eff. Sept. 1, 1993. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 302, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 102.53. RIGHTS OF RETAILERS. Nothing in Section 102.51 or 102.52 of this code limits or alters the right of a holder of a retail license or permit to purchase beer at the licensed premises of any general, local, or branch distributor's licensee in the state and transport that beer to his licensed premises, except that the retailer may sell the beer only within a territory for which the manufacturer of the brand has designated that it may be sold by a distributor.

Acts 1977, 65th Leg., p. 504, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 55, ch. 33, Sec. 10, eff. Aug. 27, 1979.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 303, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 102.54. ADDITIONAL REQUIREMENTS FOR APPLICANTS FOR DISTRIBUTOR'S LICENSE. (a) In addition to any other requirements necessary for issuance or renewal of a distributor's license, the commission shall require an applicant for a license or a holder of a license to show that the applicant or holder:

(1) has entered into or will acquire a written agreement designating an assigned territory from a manufacturer in accordance with this subchapter and Subchapter D;

(2) has received or has applied for and will maintain all licenses or permits required to engage in business in the assigned territory as a holder of a distributor's license, including any state or federal licenses or permits;

(3) has ordered, received, and stored or has committed to order, receive, and store a sufficient amount of beer that the distributor is authorized to sell to ensure that the distributor can supply the reasonable needs of all retailers in the assigned territory;

(4) has received and stored or has committed to receive and store beer received from a manufacturer in a manner complying with a product quality control standard established by the manufacturer or the commission; and

(5) has or will have the ability to sell, deliver, and promote each brand of beer sold by the distributor to all retailers in the assigned territory:

(A) in a manner that complies with the product quality control standards of the manufacturer or of the commission; and

(B) on a continuing and recurring basis in response to reasonable market demand for a brand of beer by the retailer or the retailer's customers in the assigned territory.

(b) In determining whether an applicant for or holder of a distributor's license meets the requirement of Subsection (a)(5), the

commission may require the applicant or holder to show that the applicant or holder has or will have:

(1) storage facilities of a sufficient size to store each brand of beer in an amount equal to the demand for the product from all retailers in the holder's or applicant's assigned territory;

(2) an inventory or a commitment to acquire an inventory of each brand of beer in an amount equal to the demand for the brand from all retailers in the holder's or applicant's assigned territory;

(3) a sufficient number of employees to provide the holder or applicant with the ability:

(A) to sell, deliver on a reasonably prompt basis, and promote each brand of beer to all retailers in the holder's or applicant's assigned territory; and

(B) to prepare and submit in a timely manner any fee or tax payments or reports required by any authorized governmental regulatory authority, including the Bureau of Alcohol, Tobacco, and Firearms and the commission; and

(4) a sufficient number of delivery vehicles and rolling stock to provide the holder or the applicant with the capability of transporting, selling, delivering, or promoting each brand of beer to all retailers in the assigned territory.

(c) The commission or administrator shall refuse to approve an application for a distributor's license or shall refuse to renew a distributor's license if the commission or administrator finds the holder or applicant has failed to comply with any of the requirements of Subsection (a) or (b).

(d) In this section:

(1) "Distributor" means a person who holds a license issued under Chapter 64 or 65.

(2) "Manufacturer" means a person who holds a license issued under Chapter 62, 63, or 74.

(3) "Retailer" means a person who holds a permit or license issued under Chapters 25 through 34, Chapter 48, Chapters 69 through 72, or Chapter 74.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 750 (S.B. 515), Sec. 6, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 304(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 304(b), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 102.55. TERRITORIAL ASSIGNMENTS; DEFINITIONS. (a) In this subchapter and Subchapter D, and as the terms relate to an agreement between a manufacturer and a distributor describing the sales territory in which a distributor may sell the beer of a manufacturer:

(1) "Brand" means any word, name, group of letters, symbol, or trademark or a combination of any word, name, group of letters, symbol, or trademark that is adopted and used by a manufacturer on a label or on packaging to identify a specific beer or malt beverage and to distinguish the beer or malt beverage product from the label or packaging of another beer or malt beverage produced or marketed by any manufacturer. The term does not include the name of the manufacturer unless the name of the manufacturer is included in the name of the brand.

(2) "Brand extension" means a brand that incorporates a brand name or brand logo, or a substantial part of an existing brand name or brand logo, of the same manufacturer.

(3) "Manufacturer" means a person who holds a license issued under Chapter 62, 63, or 74.

(b) A brand extension is not a new or different brand.

(c) A manufacturer shall assign a brand extension to the distributor to whom the brand was originally assigned, if the distributor elects to distribute and sell the brand extension.

Added by Acts 1995, 74th Leg., ch. 152, Sec. 2, eff. May 19, 1995.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 750 (S.B. 515), Sec. 7, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 306, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 102.56. APPLICATION OF TERRITORIAL LIMITS TO CERTAIN PERMIT HOLDERS. (a) This section applies only to a holder of a

local distributor's permit under Chapter 23 that operates in a county in which 8,000 or more alcoholic beverage licenses or permits of any type have been issued under this code and are in effect. Subsections (b) and (d) apply only to the delivery of a brand of ale, beer, or malt liquor to a holder of a mixed beverage permit or a private club permit whose premises is located in a county in which 8,000 or more alcoholic beverage licenses or permits of any type have been issued under this code and are in effect.

(b) A holder of a local distributor's permit under Chapter 23 who has purchased a brand of ale, beer, or malt liquor from the holder of a general, local, or branch distributor's license or from the holder of a general class B wholesaler's or local class B wholesaler's permit may not deliver the brand of ale, beer, or malt liquor to any holder of a mixed beverage permit or private club permit whose premises is located inside that county and outside the territory assigned to the distributor or wholesaler who sold the product under a territorial limit agreement authorized by this subchapter.

(c) Except as provided by Subsection (d), a holder of a local distributor's permit may purchase a brand of ale, beer, or malt liquor only from a distributor or wholesaler who has been assigned the territory where the premises of the holder of the local distributor's permit is located.

(d) A holder of a local distributor's permit who delivers a brand of ale, beer, or malt liquor to a holder of a mixed beverage permit or private club permit whose premises is located inside that county and outside the assigned territory where the premises of the holder of a local distributor's permit is located must purchase the brand of ale, beer, or malt liquor from a distributor or wholesaler who has been assigned the territory where the premises of the holder of the mixed beverage or private club permit is located.

Added by Acts 1997, 75th Leg., ch. 1164, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 307, eff. September 1, 2021.

Text of subchapter effective on September 1, 2021

Text of subchapter effective on September 1, 2021

SUBCHAPTER C. TERRITORIAL LIMITS ON SALE OF MALT BEVERAGES

Text of section effective on September 1, 2021

Sec. 102.51. SETTING OF TERRITORIAL LIMITS. (a) Each holder of a brewer's or nonresident brewer's license shall designate territorial limits in this state within which the brands of malt beverages the licensee brews may be sold by general or branch distributor's licensees.

(b) Each holder of a general or branch distributor's license shall enter into a written agreement with each brewer from which the distributor purchases malt beverages for distribution and sale in this state setting forth the sales territory within which each brand of malt beverage purchased by that distributor may be distributed and sold. No holder of a general or branch distributor's license shall make any sales of any brand of malt beverage outside the sales territory specified in the written agreement. No such agreement shall interfere with the rights of retailers to purchase malt beverages as provided in Section 102.53. A brewer may not assign all or any part of the same sales territory to more than one distributor. A copy of the agreement and any amendments to it shall be filed with the administrator.

(c) This Act is promulgated pursuant to the authority of the state under the provisions of the Twenty-first Amendment to the United States Constitution to promote the public interest in the fair, efficient, and competitive distribution of malt beverages, to increase competition in such areas, and to assure product quality control and accountability by allowing brewers to assign sales territories within this state.

Acts 1977, 65th Leg., p. 504, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5229, ch. 959, Sec. 1, eff. Aug. 29, 1983; Acts 1995, 74th Leg., ch. 152, Sec. 1, eff. May 19, 1995. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 301, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 102.52. RIGHTS OF DISTRIBUTORS. Nothing in Section 102.51 limits or alters the right of a holder of a general or branch distributor's license to sell malt beverages to any other holder of a

general or branch distributor's license, except that a distributor who has purchased malt beverages from another distributor may distribute and sell the malt beverages only within a territory for which the brewer of the brand has designated that it may be sold by the general or branch distributor making the purchase.

Acts 1977, 65th Leg., p. 504, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 55, ch. 33, Sec. 9, eff. Aug. 27, 1979; Acts 1993, 73rd Leg., ch. 934, Sec. 67, eff. Sept. 1, 1993.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 302, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 102.53. RIGHTS OF RETAILERS. Nothing in Section 102.51 or 102.52 limits or alters the right of a holder of a retail license or permit to purchase malt beverages at the licensed premises of any general or branch distributor's licensee in the state and transport those malt beverages to the licensee's licensed premises, except that the retailer may sell the malt beverages only within a territory for which the brewer of the brand has designated that the malt beverages may be sold by a distributor.

Acts 1977, 65th Leg., p. 504, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 55, ch. 33, Sec. 10, eff. Aug. 27, 1979.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 303, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 102.54. ADDITIONAL REQUIREMENTS FOR APPLICANTS FOR DISTRIBUTOR'S LICENSE. (a) In addition to any other requirements necessary for issuance or renewal of a distributor's license, the commission shall require an applicant for a license or a holder of a license to show that the applicant or holder:

(1) has entered into or will acquire a written agreement designating an assigned territory from a brewer in accordance with

this subchapter and Subchapter D;

(2) has received or has applied for and will maintain all licenses or permits required to engage in business in the assigned territory as a holder of a distributor's license, including any state or federal licenses or permits;

(3) has ordered, received, and stored or has committed to order, receive, and store a sufficient amount of malt beverages that the distributor is authorized to sell to ensure that the distributor can supply the reasonable needs of all retailers in the assigned territory;

(4) has received and stored or has committed to receive and store malt beverages received from a brewer in a manner complying with a product quality control standard established by the brewer or the commission; and

(5) has or will have the ability to sell, deliver, and promote each brand of malt beverage sold by the distributor to all retailers in the assigned territory:

(A) in a manner that complies with the product quality control standards of the brewer or of the commission; and

(B) on a continuing and recurring basis in response to reasonable market demand for a brand of malt beverage by the retailer or the retailer's customers in the assigned territory.

(b) In determining whether an applicant for or holder of a distributor's license meets the requirement of Subsection (a)(5), the commission may require the applicant or holder to show that the applicant or holder has or will have:

(1) storage facilities of a sufficient size to store each brand of malt beverage in an amount equal to the demand for the product from all retailers in the holder's or applicant's assigned territory;

(2) an inventory or a commitment to acquire an inventory of each brand of malt beverage in an amount equal to the demand for the brand from all retailers in the holder's or applicant's assigned territory;

(3) a sufficient number of employees to provide the holder or applicant with the ability:

(A) to sell, deliver on a reasonably prompt basis, and promote each brand of malt beverage to all retailers in the holder's or applicant's assigned territory; and

(B) to prepare and submit in a timely manner any fee or

tax payments or reports required by any authorized governmental regulatory authority, including the Bureau of Alcohol, Tobacco, and Firearms and the commission; and

(4) a sufficient number of delivery vehicles and rolling stock to provide the holder or the applicant with the capability of transporting, selling, delivering, or promoting each brand of malt beverage to all retailers in the assigned territory.

(c) The commission or administrator shall refuse to approve an application for a distributor's license or shall refuse to renew a distributor's license if the commission or administrator finds the holder or applicant has failed to comply with any of the requirements of Subsection (a) or (b).

(d) In this section:

(1) "Distributor" means a person who holds a license issued under Chapter 64 or 65.

(2) "Brewer" means a person who holds a license issued under Chapter 62, 63, or 74.

(3) "Retailer" means a person who holds a permit or license issued under Chapters 25 through 34, Chapter 48, Chapters 69 through 72, or Chapter 74.

Added by Acts 1995, 74th Leg., ch. 152, Sec. 2, eff. May 19, 1995.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 750 (S.B. 515), Sec. 6, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 304(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 304(b), eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 305, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 102.55. TERRITORIAL ASSIGNMENTS; DEFINITIONS. (a) In this subchapter and Subchapter D, and as the terms relate to an agreement between a brewer and a distributor describing the sales territory in which a distributor may sell the malt beverages of a brewer:

(1) "Brand" means any word, name, group of letters, symbol,

or trademark or a combination of any word, name, group of letters, symbol, or trademark that is adopted and used by a brewer on a label or on packaging to identify a specific malt beverage and to distinguish the malt beverage product from the label or packaging of another malt beverage produced or marketed by any brewer. The term does not include the name of the brewer unless the name of the brewer is included in the name of the brand.

(2) "Brand extension" means a brand that incorporates a brand name or brand logo, or a substantial part of an existing brand name or brand logo, of the same brewer.

(3) "Brewer" means a person who holds a license issued under Chapter 62, 63, or 74.

(b) A brand extension is not a new or different brand.

(c) A brewer shall assign a brand extension to the distributor to whom the brand was originally assigned, if the distributor elects to distribute and sell the brand extension.

Added by Acts 1995, 74th Leg., ch. 152, Sec. 2, eff. May 19, 1995.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 750 (S.B. 515), Sec. 7, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 306, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 102.56. APPLICATION OF TERRITORIAL LIMITS TO CERTAIN PERMIT HOLDERS. (a) This section applies only to a holder of a local distributor's permit under Chapter 23 that operates in a county in which 8,000 or more alcoholic beverage licenses or permits of any type have been issued under this code and are in effect. Subsections (b) and (d) apply only to the delivery of a brand of malt beverage to a holder of a mixed beverage permit or a private club permit whose premises is located in a county in which 8,000 or more alcoholic beverage licenses or permits of any type have been issued under this code and are in effect.

(b) A holder of a local distributor's permit under Chapter 23 who has purchased a brand of malt beverage from the holder of a general or branch distributor's license may not deliver the brand of malt beverage to any holder of a mixed beverage permit or private

club permit whose premises is located inside that county and outside the territory assigned to the distributor who sold the product under a territorial limit agreement authorized by this subchapter.

(c) Except as provided by Subsection (d), a holder of a local distributor's permit may purchase a brand of malt beverage only from a distributor who has been assigned the territory where the premises of the holder of the local distributor's permit is located.

(d) A holder of a local distributor's permit who delivers a brand of malt beverage to a holder of a mixed beverage permit or private club permit whose premises is located inside that county and outside the assigned territory where the premises of the holder of a local distributor's permit is located must purchase the brand of malt beverage from a distributor who has been assigned the territory where the premises of the holder of the mixed beverage or private club permit is located.

Added by Acts 1997, 75th Leg., ch. 1164, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 307, eff. September 1, 2021.

Text of subchapter effective until September 1, 2021

Text of subchapter effective until September 1, 2021

SUBCHAPTER D. BEER INDUSTRY FAIR DEALING LAW

Text of section effective until September 1, 2021

Sec. 102.71. DEFINITIONS. In this subchapter:

(1) "This Act" means this subchapter which shall have the short title and may be cited as the "Beer Industry Fair Dealing Law."

(2) "Agreement" means any contract, agreement, or arrangement, whether expressed or implied, whether oral or written, for a definite or indefinite period between a manufacturer and a distributor pursuant to which a distributor has the right to purchase, resell, and distribute any brand or brands of beer offered by a manufacturer.

(3) "Distributor" means those persons licensed under Section 64.01 or 65.01 of this code.

(4) "Manufacturer" means those persons licensed under Section 62.01, 63.01, or 74.01.

(5) "Territory" or "sales territory" means the geographic area of distribution and sale responsibility designated by an agreement between a distributor and manufacturer, as provided in Section 102.51 of this code, for any brands of the manufacturer.

(6) "Good cause" means the failure by any party to an agreement, without reasonable excuse or justification, to comply substantially with an essential, reasonable, and commercially acceptable requirement imposed by the other party under the terms of an agreement.

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 750 (S.B. 515), Sec. 8, eff. June 14, 2013.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 309, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 102.72. PURPOSES. (a) This Act is promulgated pursuant to authority of the state under the provisions of the 21st amendment to the United States Constitution to promote the public's interest in the fair, efficient, and competitive distribution of beer within this state by requiring manufacturers and distributors to conduct their business relations so as to assure:

(1) that the beer distributor is free to manage its business enterprise, including the right to independently establish its selling prices; and

(2) that the public, retailers, and manufacturers are served by distributors who will devote their reasonable efforts and resources to the sales and distribution of all the manufacturer's products which the distributor has the right to sell and distribute and maintain satisfactory sales levels in the sales territory assigned the distributor.

(b) This Act shall govern all relations between manufacturers and their distributors, including any renewals or amendments to agreements between them, to the full extent consistent with the constitutions and laws of this state and the United States.

(c) The effect of this Act may not be varied by agreement. Any

agreement purporting to do so is void and unenforceable to the extent of such variance only.

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 310, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 102.73. TERMINATION AND NOTICE OF CANCELLATION. (a) Except as provided in Subsection (c) of this section, and except as may be specifically agreed upon at the time by the parties, no manufacturer or beer distributor may cancel, fail to renew, or otherwise terminate an agreement unless the manufacturer or distributor furnishes prior notification in accordance with Subsection (b) of this section to the affected party.

(b) The notification required under Subsection (a) of this section shall be in writing and must be received by the affected party not less than 90 days before the date on which the agreement will be cancelled, not renewed, or otherwise terminated. Such notification shall contain a statement of intention to cancel, failure to renew, or otherwise terminate an agreement, a statement of reasons therefor, and the date on which such action shall take effect.

(c) A manufacturer or distributor may cancel, fail to renew, or otherwise terminate an agreement without furnishing any prior notification for any of the following reasons:

(1) in the event of insolvency or bankruptcy or dissolution or liquidation of the other party;

(2) in the event the other party shall make an assignment for the benefit of creditors or similar disposition of substantially all of the assets of such party's business;

(3) in the event of a conviction or plea of guilty or no contest to a charge of violating a law or regulation or the revocation or suspension of a license or permit for a period of 30 days or more relating to the business and which materially and adversely affects the party's ability to continue in business; or

(4) in the event of the failure to pay amounts owing the

other when due, upon demand therefor, in accordance with agreed payment terms.

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 311, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 102.74. CANCELLATION. No manufacturer or beer distributor may cancel, fail to renew, or otherwise terminate an agreement unless the party intending such action has good cause for such cancellation, failure to renew, or termination and, in any case in which prior notification is required under Section 102.73 of this code, the party intending to act has furnished said prior notification and the affected party has not eliminated the reasons specified in such notification as the reasons for cancellation, failure to renew, or termination within 90 days after the receipt of such notification.

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 312, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 102.75. PROHIBITED CONDUCT. (a) No manufacturer shall:

(1) induce or coerce, or attempt to induce or coerce, any distributor to engage in any illegal act or course of conduct;

(2) require a distributor to assent to any unreasonable requirement, condition, understanding, or term of an agreement prohibiting a distributor from selling the product of any other manufacturer or manufacturers;

(3) fix or maintain the price at which a distributor may resell beer;

(4) fail to provide to each distributor of its brands a written contract which embodies the manufacturer's agreement with its

distributor;

(5) require any distributor to accept delivery of any beer or any other item or commodity which shall not have been ordered by the distributor;

(6) adjust the price at which the manufacturer sells beer to a distributor based on the price at which a distributor resells beer to a retailer, but a manufacturer is free to set its own price so long as any price adjustment is based on factors other than a distributor's increase in the price it charges to a retailer and not intended to otherwise coerce illegal behavior under this section; or

(7) accept payment in exchange for an agreement setting forth territorial rights.

(b) Nothing in this section shall interfere with the rights of a manufacturer or distributor to enter into contractual agreements that could be construed as governing ordinary business transactions, including, but not limited to, agreements concerning allowances, rebates, refunds, services, capacity, advertising funds, promotional funds, or sports marketing funds.

(c) It is the public policy and in the interest of this state to assure the independence of members of the three-tier system, but nothing in this code may be construed to prohibit contractual agreements between members of the same tier who hold the same licenses and permits.

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 555 (S.B. 639), Sec. 1, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 313, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 102.76. TRANSFER OF BUSINESS ASSETS OR STOCK. (a) No manufacturer shall unreasonably withhold or delay its approval of any assignment, sale, or transfer of the stock of a distributor or all or any portion of a distributor's assets, distributor's voting stock, the voting stock of any parent corporation, or the beneficial ownership or control of any other entity owning or controlling the

distributor, including the distributor's rights and obligations under the terms of an agreement whenever the person or persons to be substituted meet reasonable standards imposed not only upon the distributor but upon all other distributors of that manufacturer of the same general class, taking into account the size and location of the sales territory and market to be served. Upon the death of one of the partners of a partnership operating the business of a distributor, no manufacturer shall deny the surviving partner or partners of such partnership the right to become a successor-in-interest to the agreement between the manufacturer and such partnership. Provided that the survivor has been active in the management of the partnership and/or is otherwise capable of carrying on the business of the partnership.

(b) Notwithstanding the provisions of Subsection (a) of this section, upon the death of a distributor no manufacturer shall deny approval for any transfer of ownership to a surviving spouse or adult child of an owner of a distributor; provided, however, that such subsequent transfers of such ownership by such surviving spouse or adult child shall thereafter be subject to the provisions of Subsection (a) of this section.

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 314, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 102.77. REASONABLE COMPENSATION. (a) Any manufacturer who, without good cause, cancels, terminates, or fails to renew any agreement, or unlawfully denies approval of, or unreasonably withholds consent, to any assignment, transfer, or sale of a distributor's business assets or voting stock or other equity securities, shall pay such distributor with whom it has an agreement pursuant to Section 102.51 of this code the fair market value of the distributor's business with relation to the affected brand or brands. In determining fair market value, consideration shall be given to all elements of value, including but not limited to goodwill and going concern value.

(b) In the event that the manufacturer and the distributor are unable to mutually agree on whether or not good cause exists for cancellation under Section 102.74 of this code or on the reasonable compensation to be paid for the value of the distributor's business, as defined herein, the matter may, at the option of either the distributor or manufacturer, be submitted to three arbitrators, one of whom shall be named in writing by each party and the third of whom shall be chosen by the two arbiters so selected. Should the arbiters selected fail to choose a third arbiter within 10 days, a judge of a district court in the county in which the distributor's principal place of business is located shall select the third arbiter. Arbitration shall be conducted in accordance with the Texas General Arbitration Act, as amended (Article 224, Revised Civil Statutes of Texas, 1925). Arbitration costs shall be paid one-half by the distributor and one-half by the manufacturer. The award of the arbitrators shall be binding on the parties unless appealed within 10 days from the date of the award. All proceedings on appeal shall be in accordance with and governed by the Texas General Arbitration Act, as amended (Article 224, Revised Civil Statutes of Texas, 1925).

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 315, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 102.78. RIGHT OF FREE ASSOCIATION. No manufacturer or distributor shall restrict or inhibit, directly or indirectly, the right of free association among manufacturers or distributors for any lawful purpose.

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 316, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 102.79. JUDICIAL REMEDIES. (a) If a manufacturer or distributor who is a party to an agreement pursuant to Section 102.51 of this code fails to comply with this Act or otherwise engages in conduct prohibited under this Act, or if a manufacturer and distributor are not able to mutually agree on reasonable compensation under Section 102.77 of this code and the matter is not to be submitted to arbitration, the aggrieved manufacturer or distributor may maintain a civil action in a court of competent jurisdiction in the county in which the distributor's principal place of business is located.

(b) In any action under Subsection (a) of this section, the court may grant such relief as the court determines is necessary or appropriate considering the purposes of this Act.

(c) The prevailing party in any action under Subsection (a) of this section shall be entitled to actual damages, including the value of the distributor's business, as specified in Section 102.77 of this code, reasonable attorney's fees, and court costs.

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 317, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 102.80. COVERAGE AND EFFECTIVE DATE. This Act shall cover agreements in existence on the date of enactment of this Act and also shall apply to agreements entered into and any cancellation, termination, failure to renew, amendment, or material modification of any agreement occurring after the date of enactment of this Act.

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.

Text of section effective until September 1, 2021

Sec. 102.81. ALE AND MALT LIQUOR. This subchapter and Subchapter C of this chapter apply to agreements concerning ale and

malt liquor in the same manner as they apply to agreements concerning beer, and each particular class of permittee dealing with ale and malt liquor is subject to those provisions that apply to functionally corresponding licensees within the beer industry.

Added by Acts 1987, 70th Leg., ch. 303, Sec. 4, eff. June 11, 1987.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 318, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 102.82. STATUTE OF LIMITATIONS. A person must bring suit on an action arising under this chapter not later than four years after the day the cause of action accrues. If a termination related to a change in ownership of the brand occurs, the cause of action accrues when either the new brand owner or the transferring or selling brand owner provides notice of termination to the distributor.

Added by Acts 2009, 81st Leg., R.S., Ch. 894 (S.B. 2580), Sec. 3, eff. September 1, 2009.

Text of subchapter effective on September 1, 2021

Text of subchapter effective on September 1, 2021

SUBCHAPTER D. MALT BEVERAGE INDUSTRY FAIR DEALING LAW

Text of section effective on September 1, 2021

Sec. 102.71. DEFINITIONS. In this subchapter:

(1) "This Act" means this subchapter which shall have the short title and may be cited as the "Malt Beverage Industry Fair Dealing Law."

(2) "Agreement" means any contract, agreement, or arrangement, whether expressed or implied, whether oral or written, for a definite or indefinite period between a brewer and a distributor pursuant to which a distributor has the right to purchase, resell, and distribute any brand or brands of malt beverage offered by a brewer.

(3) "Distributor" means those persons licensed under

Section 64.01 or 65.01 of this code.

(4) "Brewer" means those persons licensed under Section 62.01, 63.01, or 74.01.

(6) "Good cause" means the failure by any party to an agreement, without reasonable excuse or justification, to comply substantially with an essential, reasonable, and commercially acceptable requirement imposed by the other party under the terms of an agreement.

(5) "Territory" or "sales territory" means the geographic area of distribution and sale responsibility designated by an agreement between a distributor and brewer, as provided in Section 102.51 of this code, for any brands of the brewer.

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 309, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 102.72. PURPOSES. (a) This Act is promulgated pursuant to authority of the state under the provisions of the 21st amendment to the United States Constitution to promote the public's interest in the fair, efficient, and competitive distribution of malt beverages within this state by requiring brewers and distributors to conduct their business relations so as to assure:

(1) that the malt beverage distributor is free to manage its business enterprise, including the right to independently establish its selling prices; and

(2) that the public, retailers, and brewers are served by distributors who will devote their reasonable efforts and resources to the sales and distribution of all the brewer's products which the distributor has the right to sell and distribute and maintain satisfactory sales levels in the sales territory assigned the distributor.

(b) This Act shall govern all relations between brewers and their distributors, including any renewals or amendments to agreements between them, to the full extent consistent with the constitutions and laws of this state and the United States.

(c) The effect of this Act may not be varied by agreement. Any agreement purporting to do so is void and unenforceable to the extent of such variance only.

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 310, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 102.73. TERMINATION AND NOTICE OF CANCELLATION. (a) Except as provided in Subsection (c), and except as may be specifically agreed upon at the time by the parties, a brewer or beer distributor may not cancel, fail to renew, or otherwise terminate an agreement unless the brewer or distributor furnishes prior notification in accordance with Subsection (b) to the affected party.

(b) The notification required under Subsection (a) of this section shall be in writing and must be received by the affected party not less than 90 days before the date on which the agreement will be cancelled, not renewed, or otherwise terminated. Such notification shall contain a statement of intention to cancel, failure to renew, or otherwise terminate an agreement, a statement of reasons therefor, and the date on which such action shall take effect.

(c) A brewer or distributor may cancel, fail to renew, or otherwise terminate an agreement without furnishing any prior notification for any of the following reasons:

(1) in the event of insolvency or bankruptcy or dissolution or liquidation of the other party;

(2) in the event the other party shall make an assignment for the benefit of creditors or similar disposition of substantially all of the assets of such party's business;

(3) in the event of a conviction or plea of guilty or no contest to a charge of violating a law or regulation or the revocation or suspension of a license or permit for a period of 30 days or more relating to the business and which materially and adversely affects the party's ability to continue in business; or

(4) in the event of the failure to pay amounts owing the

other when due, upon demand therefor, in accordance with agreed payment terms.

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 311, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 102.74. CANCELLATION. A malt beverage brewer or distributor may not cancel, fail to renew, or otherwise terminate an agreement unless the party intending such action has good cause for such cancellation, failure to renew, or termination and, in any case in which prior notification is required under Section 102.73, the party intending to act has furnished said prior notification and the affected party has not eliminated the reasons specified in such notification as the reasons for cancellation, failure to renew, or termination within 90 days after the receipt of such notification.

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 312, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 102.75. PROHIBITED CONDUCT. (a) A brewer may not:

(1) induce or coerce, or attempt to induce or coerce, any distributor to engage in any illegal act or course of conduct;

(2) require a distributor to assent to any unreasonable requirement, condition, understanding, or term of an agreement prohibiting a distributor from selling the product of any other brewer;

(3) fix or maintain the price at which a distributor may resell malt beverages;

(4) fail to provide to each distributor of its brands a written contract which embodies the brewer's agreement with its

distributor;

(5) require any distributor to accept delivery of any malt beverages or any other item or commodity which shall not have been ordered by the distributor;

(6) adjust the price at which the brewer sells malt beverages to a distributor based on the price at which a distributor resells malt beverages to a retailer, but a brewer is free to set its own price so long as any price adjustment is based on factors other than a distributor's increase in the price it charges to a retailer and not intended to otherwise coerce illegal behavior under this section; or

(7) accept payment in exchange for an agreement setting forth territorial rights.

(b) Nothing in this section shall interfere with the rights of a brewer or distributor to enter into contractual agreements that could be construed as governing ordinary business transactions, including, but not limited to, agreements concerning allowances, rebates, refunds, services, capacity, advertising funds, promotional funds, or sports marketing funds.

(c) It is the public policy and in the interest of this state to assure the independence of members of the three-tier system, but nothing in this code may be construed to prohibit contractual agreements between members of the same tier who hold the same licenses and permits.

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 555 (S.B. 639), Sec. 1, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 313, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 102.76. TRANSFER OF BUSINESS ASSETS OR STOCK. (a) A brewer may not unreasonably withhold or delay its approval of any assignment, sale, or transfer of the stock of a distributor or all or any portion of a distributor's assets, distributor's voting stock, the voting stock of any parent corporation, or the beneficial

ownership or control of any other entity owning or controlling the distributor, including the distributor's rights and obligations under the terms of an agreement whenever the person or persons to be substituted meet reasonable standards imposed not only upon the distributor but upon all other distributors of that brewer of the same general class, taking into account the size and location of the sales territory and market to be served. Upon the death of one of the partners of a partnership operating the business of a distributor, a brewer may not deny the surviving partner or partners of such partnership the right to become a successor-in-interest to the agreement between the brewer and such partnership. Provided that the survivor has been active in the management of the partnership or is otherwise capable of carrying on the business of the partnership.

(b) Notwithstanding the provisions of Subsection (a), upon the death of a distributor a brewer may not deny approval for any transfer of ownership to a surviving spouse or adult child of an owner of a distributor; provided, however, that such subsequent transfers of such ownership by such surviving spouse or adult child shall thereafter be subject to the provisions of Subsection (a).

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 314, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 102.77. REASONABLE COMPENSATION. (a) Any brewer who, without good cause, cancels, terminates, or fails to renew any agreement, or unlawfully denies approval of, or unreasonably withholds consent, to any assignment, transfer, or sale of a distributor's business assets or voting stock or other equity securities, shall pay such distributor with whom it has an agreement pursuant to Section 102.51 the fair market value of the distributor's business with relation to the affected brand or brands. In determining fair market value, consideration shall be given to all elements of value, including goodwill and going concern value.

(b) In the event that the brewer and the distributor are unable to mutually agree on whether or not good cause exists for

cancellation under Section 102.74 or on the reasonable compensation to be paid for the value of the distributor's business, as defined herein, the matter may, at the option of either the distributor or brewer, be submitted to three arbitrators, one of whom shall be named in writing by each party and the third of whom shall be chosen by the two arbiters so selected. Should the arbiters selected fail to choose a third arbiter within 10 days, a judge of a district court in the county in which the distributor's principal place of business is located shall select the third arbiter. Arbitration shall be conducted in accordance with Chapter 171, Civil Practice and Remedies Code. Arbitration costs shall be paid one-half by the distributor and one-half by the brewer. The award of the arbitrators shall be binding on the parties unless appealed within 10 days from the date of the award. All proceedings on appeal shall be in accordance with and governed by Chapter 171, Civil Practice and Remedies Code.

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 315, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 102.78. RIGHT OF FREE ASSOCIATION. A brewer or distributor may not restrict or inhibit, directly or indirectly, the right of free association among brewers or distributors for any lawful purpose.

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 316, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 102.79. JUDICIAL REMEDIES. (a) If a brewer or distributor who is a party to an agreement pursuant to Section 102.51 fails to comply with this Act or otherwise engages in conduct

prohibited under this Act, or if a brewer and distributor are not able to mutually agree on reasonable compensation under Section 102.77 and the matter is not to be submitted to arbitration, the aggrieved brewer or distributor may maintain a civil action in a court of competent jurisdiction in the county in which the distributor's principal place of business is located.

(b) In any action under Subsection (a) of this section, the court may grant such relief as the court determines is necessary or appropriate considering the purposes of this Act.

(c) The prevailing party in any action under Subsection (a) of this section shall be entitled to actual damages, including the value of the distributor's business, as specified in Section 102.77 of this code, reasonable attorney's fees, and court costs.

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 317, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 102.80. COVERAGE AND EFFECTIVE DATE. This Act shall cover agreements in existence on the date of enactment of this Act and also shall apply to agreements entered into and any cancellation, termination, failure to renew, amendment, or material modification of any agreement occurring after the date of enactment of this Act.

Added by Acts 1981, 67th Leg., p. 60, ch. 26, Sec. 1, eff. April 8, 1981.

Text of section effective on September 1, 2021

Sec. 102.81. MALT BEVERAGES. This subchapter and Subchapter C apply to agreements concerning all malt beverages in the same manner.

Added by Acts 1987, 70th Leg., ch. 303, Sec. 4, eff. June 11, 1987.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 318, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 102.82. STATUTE OF LIMITATIONS. A person must bring suit on an action arising under this chapter not later than four years after the day the cause of action accrues. If a termination related to a change in ownership of the brand occurs, the cause of action accrues when either the new brand owner or the transferring or selling brand owner provides notice of termination to the distributor.

Added by Acts 2009, 81st Leg., R.S., Ch. 894 (S.B. 2580), Sec. 3, eff. September 1, 2009.

CHAPTER 103. ILLICIT BEVERAGES

Sec. 103.01. ILLICIT BEVERAGES PROHIBITED. No person may possess, manufacture, transport, or sell an illicit beverage.

Acts 1977, 65th Leg., p. 505, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 103.02. EQUIPMENT OR MATERIAL FOR MANUFACTURE OF ILLICIT BEVERAGES. No person may possess equipment or material designed for, capable of use for, or used in manufacturing an illicit beverage.

Acts 1977, 65th Leg., p. 505, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 103.03. SEIZURE OF ILLICIT BEVERAGES, ETC. A peace officer may seize without a warrant:

(1) any illicit beverage, its container, and its packaging;

(2) any vehicle, including an aircraft or watercraft, used to transport an illicit beverage;

(3) any equipment designed for use in or used in manufacturing an illicit beverage; or

(4) any material to be used in manufacturing an illicit beverage.

Acts 1977, 65th Leg., p. 505, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 103.04. ARREST OF PERSON IN POSSESSION. A peace officer may arrest without a warrant any person found in possession of:

(1) an illicit beverage;

(2) any equipment designed for use in or used in manufacturing an illicit beverage; or

(3) any material to be used in manufacturing an illicit beverage.

Acts 1977, 65th Leg., p. 505, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 103.05. REPORT OF SEIZURE. (a) A peace officer who makes a seizure under Section 103.03 of this code shall make a report in triplicate which lists each item seized and the place and name of the owner, operator, or other person from whom it is seized. One copy of the report shall be verified by oath.

(b) The verified copy shall be retained in the permanent files of the commission or other agency making the seizure. The copy is subject to inspection by any member of the legislature or by any authorized law enforcement agency of the state.

(c) One copy of the report shall be delivered to the person from whom the seizure is made.

(d) A peace officer who makes a false report of the property seized commits a felony punishable by confinement in the Texas Department of Criminal Justice for not less than two years and not more than five years.

(e) A peace officer who fails to file the reports of a seizure as required by this section commits a misdemeanor punishable by a fine of not less than $50 nor more than $100 or by confinement in jail for not less than 10 nor more than 90 days or by both. The commission shall insure that the reports are made by peace officers.

Acts 1977, 65th Leg., p. 505, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 5222, ch. 954, Sec. 1, eff. Aug. 29, 1983.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.008, eff. September 1, 2009.

Sec. 103.06. BEVERAGE DELIVERED TO COMMISSION. Any alcoholic

beverage, its container, and its packaging which has been seized by a peace officer, as provided in Section 103.03 of this code, may not be replevied and shall be delivered to the commission for immediate public or private sale in the manner the commission considers best.

Acts 1977, 65th Leg., p. 506, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 103.07. BEVERAGE OF ILLICIT MANUFACTURE OR UNFIT FOR CONSUMPTION. (a) The commission may not sell alcoholic beverages seized by a peace officer, as provided in Section 103.03, that are unfit for public consumption or are of illicit manufacture.

(b) Alcoholic beverages are unfit for public consumption if:

(1) the manufacturer or wholesaler of the beverages determines that the beverages are inappropriate for sale to a consumer;

(2) the beverages are damaged; or

(3) the code date affixed by the manufacturer to the beverages has expired.

(c) If the commission determines that seized alcoholic beverages are unfit for public consumption or are of illicit manufacture, the commission shall destroy the alcoholic beverages.

Acts 1977, 65th Leg., p. 506, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2005, 79th Leg., Ch. 1182 (S.B. 1255), Sec. 8, eff. June 18, 2005.

Text of section effective until September 1, 2021

Sec. 103.08. SALE OF BEER. (a) Any beer, its container, or its packaging which is seized under the terms of this chapter shall be disposed of in accordance with this section.

(b) On notification that beer has been seized, the commission shall promptly notify a holder of a general, local, or branch distributor's license who handles the brand of beer seized and who operates in the county in which it was seized. If the beer was seized in a dry area, the commission shall notify either the general, local, or branch distributor who handles the brand operating nearest the area or the manufacturer brewing the beer. The commission and

the distributor or manufacturer shall jointly determine whether the beer is in a salable condition.

(c) If the beer is determined not to be in a salable condition, the commission shall immediately destroy it. If it is determined to be in a salable condition, it shall be offered for sale to the distributor or manufacturer. If offered to a distributor, the beer shall be sold at the distributor's cost price less any state taxes which have been paid on the beer, F.O.B. the distributor's place of business. If the beer is offered to a manufacturer, it shall be sold at the manufacturer's cost price to its nearest distributor, less any state taxes which have been paid on the beer, F.O.B., the nearest distributor's place of business. In either case, the storage or warehousing charges necessarily incurred as a result of the seizure shall be added to the cost price.

(d) If the distributor or manufacturer does not exercise the right to purchase salable beer or to purchase returnable bottles, containers, or packages at their deposit price within 10 days, the commission shall sell the beer, bottles, containers, or packages at public or private sale as provided in this chapter.

Acts 1977, 65th Leg., p. 506, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 319, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 103.08. SALE OF MALT BEVERAGE. (a) Any malt beverage, its container, or its packaging which is seized under the terms of this chapter shall be disposed of in accordance with this section.

(b) On notification that the malt beverage has been seized, the commission shall promptly notify a holder of a general or branch distributor's license who handles the brand of malt beverage seized and who operates in the county in which it was seized. If the malt beverage was seized in a dry area, the commission shall notify either the general or branch distributor who handles the brand operating nearest the area or the brewer brewing the malt beverage. The commission and the distributor or brewer shall jointly determine whether the malt beverage is in a salable condition.

(c) If the malt beverage is determined not to be in a salable

condition, the commission shall immediately destroy it. If it is determined to be in a salable condition, it shall be offered for sale to the distributor or brewer. If offered to a distributor, the malt beverage shall be sold at the distributor's cost price less any state taxes which have been paid on the malt beverage, F.O.B. the distributor's place of business. If the malt beverage is offered to a brewer, it shall be sold at the brewer's cost price to its nearest distributor, less any state taxes which have been paid on the malt beverage, F.O.B., the nearest distributor's place of business. In either case, the storage or warehousing charges necessarily incurred as a result of the seizure shall be added to the cost price.

(d) If the distributor or brewer does not exercise the right to purchase salable malt beverages or to purchase returnable bottles, containers, or packages at their deposit price within 10 days, the commission shall sell the malt beverages, bottles, containers, or packages at public or private sale as provided in this chapter.

Acts 1977, 65th Leg., p. 506, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 319, eff. September 1, 2021.

Sec. 103.09. SALE OF LIQUOR. (a) Any liquor, its container, or its packaging which is seized under the terms of this chapter shall be disposed of in accordance with this section.

(b) On notification that liquor has been seized, the commission shall promptly notify a holder of a wholesaler's permit or a general class B wholesaler's permit who handles the brand of liquor seized and who operates in the county in which it was seized. If the liquor was seized in a dry area, the commission shall notify the wholesaler who handles the brand seized who operates nearest the area. The commission and the wholesaler shall jointly determine whether the liquor is in a salable condition.

(c) If the liquor is determined not to be in a salable condition, the commission shall immediately destroy it. If it is determined to be in a salable condition, it shall first be offered for sale to the wholesaler notified at the wholesaler's cost price F.O.B. its place of business, plus any storage or warehousing charges necessarily incurred as a result of the seizure.

(d) If the wholesaler does not exercise the right to purchase salable liquor, containers, or packages at the price specified in this section within 10 days, the commission shall sell the liquor, container, or packages at public or private sale, as provided in this chapter.

Acts 1977, 65th Leg., p. 506, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 320, eff. September 1, 2019.

Sec. 103.10. EXERCISE OF DISCRETION IN CASE OF MISTAKE. The preceding sections of this subchapter shall not be construed as preventing the commission from exercising its discretion if illicit alcoholic beverages are seized as the result of an accidental shipment or other reasonable mistake. Under those circumstances, the commission may issue orders and make disposition of the alcoholic beverages as it finds just and reasonable.

Acts 1977, 65th Leg., p. 507, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 103.11. PROCEEDS FROM SALE. (a) The proceeds from the sale of seized alcoholic beverages, their containers, and their packaging shall be placed in escrow in a suspense account established by the commission for that purpose, pending the outcome of the forfeiture suit provided for in this chapter.

(b) Proceeds in escrow which are not forfeited to the state as a result of the suit shall be refunded to the alleged violator. Should the state illegally seize and sell any alcoholic beverages, the person legally entitled to possession of the beverages at the time of the seizure may recover from the state the fair market value of the beverages seized and sold, with the reimbursement paid out of the proceeds held in escrow from the sale and, if the funds in escrow are not sufficient, from the confiscated liquor fund.

Acts 1977, 65th Leg., p. 507, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 103.12. CEILING PRICES DURING EMERGENCY. If the federal

government provides a method by which illicit alcoholic beverages or other property belonging to or forfeited to the state is sold at ceiling prices during a national emergency, the commission may comply with federal law or regulations in the sale or disposal of the beverages or property, even to the extent of partially or wholly abrogating provisions of this code that are inconsistent with the federal law or regulations.

Acts 1977, 65th Leg., p. 507, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 103.13. BONDING OF SEIZED VEHICLES PENDING SUIT. Any person with an ownership or a security interest in a vehicle that has been seized under Section 103.03 may recover possession of the vehicle pending suit for forfeiture by executing a bond with surety equal to double the appraised value of the vehicle. The bond shall be approved by the officer who made the seizure and shall secure the return of the vehicle to the custody of the seizing officer on the day of trial of the forfeiture suit.

Acts 1977, 65th Leg., p. 507, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 103.14. INSTITUTION OF SUIT FOR FORFEITURE. (a) The attorney general or the county or district attorney in the county in which a seizure is made shall institute a suit for forfeiture of the property or the proceeds in escrow from any sale of illicit beverages, or both, when notified by the commission or by the seizing officer that a seizure has been made under Section 103.03 of this code.

(b) The forfeiture suit shall be brought in the name of the State of Texas against the property or the proceeds in escrow, or both, and shall be brought in a court of competent jurisdiction in the county in which the seizure was made.

Acts 1977, 65th Leg., p. 508, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 103.15. NOTICE OF FORFEITURE SUIT. (a) Notice of the pendency of a suit for forfeiture under this chapter shall be served in the manner prescribed by law on any person in possession of the

property at the time of seizure.

(b) If no person was in possession at the time of seizure or if the location of anyone who was in possession is unknown, notice of the suit shall be posted for 20 consecutive days immediately preceding the date of the suit at the courthouse door in the county in which the seizure was made.

Acts 1977, 65th Leg., p. 508, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 103.16. FORFEITURE OF A SEIZED VEHICLE. (a) In a suit for forfeiture of a vehicle seized under Section 103.03 of this code, the state shall have the burden of proving that the vehicle was used to transport an illicit beverage and that all intervenors under Subsection (b) of this section, if any, knowingly violated some provision of this code.

(b) Any person with an ownership or security interest in the vehicle may intervene in the suit for forfeiture to establish his rights. An intervenor under the provisions of this section has the burden of proving that he has a valid ownership or security interest in the vehicle.

(c) If the state fails to prove that the vehicle was used to transport an illicit beverage, the court shall render judgment returning the vehicle to the owner.

(d) If the state proves that the vehicle was used to transport an illicit beverage and that all intervenors, if any, knowingly violated some provision of this code, the court shall render judgment forfeiting the vehicle to the state.

(e) If the state proves that the vehicle was used to transport an illicit beverage but fails to prove that any intervenor knowingly violated some provision of this code, the court shall render judgment delivering possession of the vehicle to the innocent intervenor with the highest priority to possession of the vehicle.

Acts 1977, 65th Leg., p. 508, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 103.17. FORFEITURE OF OTHER SEIZED PROPERTY. (a) In any suit for forfeiture of proceeds in escrow from a sale of illicit beverages or of property other than vehicles, or both, seized under Section 103.03 of this code, the state shall have the burden of

proving that:

(1) the alcoholic beverages were illicit;

(2) the equipment is designed to be used on or is used in manufacturing an illicit beverage; or

(3) the material is to be used in manufacturing an illicit beverage.

(b) If the state fails to prove the facts necessary for forfeiture, the court shall render judgment returning possession of the property or of the proceeds in escrow to the owner or the person in possession at the time of seizure.

(c) If the state proves the facts necessary for forfeiture, the court shall render judgment forfeiting the property or the proceeds in escrow, or both, to the state and ordering disposal in accordance with the provisions of Section 103.20 or Section 103.18(c) of this code.

Acts 1977, 65th Leg., p. 508, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 103.18. INTERVENTION BY SECURED CREDITORS. (a) In any suit for forfeiture of proceeds in escrow from any sale of illicit beverages or of property other than vehicles, or both, seized under Section 103.03 of this code, any person who has a security interest in any of the seized property may intervene to establish his rights.

(b) An intervenor under the provisions of this section shall have the burden of proving that he has a valid security interest in the property and that he had no knowledge that the property in which he has a security interest had been used or was to be used in violation of this code at the time the security interest was created.

(c) If an intervenor under this section establishes a security interest and a lack of knowledge of unlawful use of the property, the court, in the judgment forfeiting the property, shall issue an order of sale directed to the sheriff or any constable of the county in which the property was seized. The order shall command the sheriff or constable to conduct a sale at the courthouse door of all or part of the property, whichever the court considers proper, in the same manner as personal property is sold under execution.

(d) The proceeds of a sale under Subsection (c) of this section shall be applied first to the payment of the costs of suit and the expenses incident to the sale. After the costs of suit and expenses

of sale have been approved by the court that tried the suit, any remaining proceeds shall be applied toward payment of creditors secured by the property, according to their priorities. After all secured creditors are satisfied, any remaining proceeds shall be paid to the commission to be allocated in accordance with the provisions of Section 103.23 of this code.

(e) If all intervenors under this section fail to establish a valid security interest or lack of knowledge of unlawful use of the property, the court, in the judgment forfeiting the property, shall order disposal of the property in accordance with the provisions of Section 103.20 of this code.

Acts 1977, 65th Leg., p. 509, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 103.19. TRANSFER OF SECURITY INTERESTS. All security interests in property sold under this chapter shall be transferred to the proceeds of the sale.

Acts 1977, 65th Leg., p. 509, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 103.20. DISPOSITION OF FORFEITED PROPERTY. (a) The commission may sell property, other than proceeds in escrow, forfeited to the state at a public or private sale in the manner the commission considers best.

(b) If in the opinion of the commission or the administrator the property is needed for the use of the commission, the commission may retain and use the property until it is no longer needed, at which time it shall be sold in accordance with Subsection (a) of this section.

Acts 1977, 65th Leg., p. 509, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 103.21. BILL OF SALE TO PURCHASER. When executing a sale under this chapter, the commission or the sheriff or constable shall issue a bill of sale to each purchaser of property. The bill of sale shall convey a valid and unimpaired title in the property to the purchaser.

Acts 1977, 65th Leg., p. 509, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 103.22. COSTS OF FORFEITURE SUITS. The commission is entitled to recover from the proceeds of a forfeiture sale all costs of a forfeiture suit brought under this chapter, including:

(1) all usual court costs, including the cost of serving process;

(2) expenses of the forfeiture sale; and

(3) reasonable attorney's fees.

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

Acts 2005, 79th Leg., Ch. 1182 (S.B. 1255), Sec. 9, eff. June 18, 2005.

Sec. 103.23. ALLOCATION OF PROCEEDS OF SALE. Proceeds from a forfeiture sale and proceeds in escrow which are forfeited to the state in a forfeiture suit shall be disposed of by depositing 35 percent of the proceeds in a separate fund in the state treasury designated as the confiscated liquor fund and depositing 65 percent of the proceeds in the general revenue fund. The confiscated liquor fund may be appropriated to the commission to defray the expenses of accumulating evidence pertaining to violations of this code; assembling, storing, transporting, selling, and accounting for confiscated alcoholic beverages, containers, devices, and property; and any other purposes deemed necessary by the commission in administering and enforcing this code. Any unexpended balance in the confiscated liquor fund at the end of a biennium shall remain in the fund subject to further appropriation for the same purposes.

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

CHAPTER 104. REGULATION OF RETAILERS

Sec. 104.01. LEWD, IMMORAL, INDECENT CONDUCT.

Text of subsection effective until September 1, 2021

(a) No person authorized to sell beer at retail, nor the

person's agent, servant, or employee, may engage in or permit conduct on the premises of the retailer which is lewd, immoral, or offensive to public decency, including, but not limited to, 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.

Text of subsection effective on September 1, 2021

(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. 104.02. BLINDS AND BARRIERS. (a) No person may install or maintain a blind or barrier in the opening or door of a retail alcoholic beverage establishment or paint the windows, at or above a point 54 inches above the ground or sidewalk beneath the window, in a manner that will obstruct the view of the general public.

(b) No person may install or maintain a curtain, hanging, sign, or other obstruction that prevents a clear view of the interior of a package store or wine only package store, except a drug store that holds one of those permits may display drug merchandise notwithstanding this subsection.

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

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.

Text of section effective until September 1, 2021

Sec. 104.04. DRAFT MALT BEVERAGE DISPENSER: SIGN REQUIRED. No retail dealer may dispense draft beer, malt liquor, or ale 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.

Text of section effective on September 1, 2021

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.

Text of subsection effective until September 1, 2021

(a) This section applies to a permittee or licensee who is authorized to sell beer, malt liquor, or ale to an ultimate consumer for consumption off the permitted or licensed premises.

Text of subsection effective on September 1, 2021

(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.

Text of subsection effective until September 1, 2021

(b) The holder of a permit or license described in Subsection (a) of this section may resell beer, malt liquor, or ale only in the packaging in which the holder received the beer, malt liquor, or ale or may resell the contents of the packages as individual containers.

Text of subsection effective on September 1, 2021

(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.

Text of subsection effective until September 1, 2021

(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 beer, malt liquor, or ale was received; or

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

Text of subsection effective on September 1, 2021

(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.

Text of subsection effective until September 1, 2021

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

(1) the distributor, wholesaler, or class B wholesaler replaces the stock with beer, ale, or malt liquor of identical brands, quantities, and packages as the beer, ale, or malt liquor withdrawn;

(2) the stock is withdrawn before the date considered by the manufacturer 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.

Text of subsection effective on September 1, 2021

(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.

(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.

CHAPTER 105. HOURS OF SALE AND CONSUMPTION

Sec. 105.01. HOURS OF SALE: LIQUOR. (a) Except as provided in Sections 105.02, 105.03, 105.04, and 105.08, no person may sell, offer for sale, or deliver any liquor:

(1) on New Year's Day, Thanksgiving Day, or Christmas Day;

(2) on Sunday; or

(3) before 10 a.m. or after 9 p.m. on any other day.

(b) When Christmas Day or New Year's Day falls on a Sunday, Subsection (a) of this section applies to the following Monday.

Acts 1977, 65th Leg., p. 511, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 1973, ch. 777, Sec. 23, eff. Aug. 27, 1979.
Amended by:

Acts 2005, 79th Leg., Ch. 84 (S.B. 571), Sec. 1, eff. May 17, 2005.

Sec. 105.02. HOURS OF SALE: WHOLESALERS AND LOCAL DISTRIBUTORS TO RETAILERS. (a) A holder of a wholesaler's permit may sell, offer for sale, or deliver liquor to a retailer anytime except Sunday and Christmas Day.

(b) A local distributor's permittee may sell, offer for sale, or deliver liquor to a retailer between 5 a.m. and 9 p.m. on any day except:

(1) Sunday;

(2) Christmas Day; or

(3) a day on which a package store permittee is prohibited from selling liquor.

Acts 1977, 65th Leg., p. 511, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 1183, ch. 453, Sec. 10, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1973, ch. 777, Sec. 23, eff. Aug. 27, 1979; Acts 1993, 73rd Leg., ch. 934, Sec. 69, eff. Sept. 1, 1993.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 7 (H.B. 2594), Sec. 1, eff. May 5, 2009.

Sec. 105.03. HOURS OF SALE: MIXED BEVERAGES. (a) No person may sell or offer for sale mixed beverages at any time not permitted by this section.

(b) A mixed beverage permittee may sell and offer for sale mixed beverages between 7 a.m. and midnight on any day except Sunday. On Sunday he may sell mixed beverages between midnight and 1:00 a.m. and between 10 a.m. and midnight, except that an alcoholic beverage served to a customer between 10 a.m. and 12 noon on Sunday must be provided during the service of food to the customer.

Text of subsection effective until September 1, 2021

(c) In a city or county having a population of 800,000 or more, according to the last preceding federal census, or 500,000 or more, according to the 22nd Decennial Census of the United States, as released by the Bureau of the Census on March 12, 2001, a holder of a mixed beverage late hours permit may also sell and offer for sale mixed beverages between midnight and 2 a.m. on any day.

Text of subsection effective on September 1, 2021

(c) In a city or county having a population of 800,000 or more, according to the last preceding federal census, or 500,000 or more, according to the 22nd Decennial Census of the United States, as released by the Bureau of the Census on March 12, 2001, a holder of a mixed beverage permit who holds a retailer late hours certificate may also sell and offer for sale mixed beverages between midnight and 2 a.m. on any day.

Text of subsection effective until September 1, 2021

(d) In a city or county other than a city or county described by Subsection (c), the extended hours prescribed in Subsection (c) of this section are effective for the sale of mixed beverages and the offer to sell them by a holder of a mixed beverages late hours

permit:

(1) in the unincorporated areas of the county if the extended hours are adopted by an order of the commissioners court; and

(2) in an incorporated city or town if the extended hours are adopted by an ordinance of the governing body of the city or town.

Text of subsection effective on September 1, 2021

(d) In a city or county other than a city or county described by Subsection (c), the extended hours prescribed in Subsection (c) are effective for the sale of mixed beverages and the offer to sell them by a holder of a mixed beverage permit who holds a retailer late hours certificate:

(1) in the unincorporated areas of the county if the extended hours are adopted by an order of the commissioners court; and

(2) in an incorporated city or town if the extended hours are adopted by an ordinance of the governing body of the city or town.

(e) A violation of a city ordinance or order of a commissioners court adopted pursuant to Subsection (d) of this section is a violation of this code.

Acts 1977, 65th Leg., p. 511, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1993, 73rd Leg., ch. 923, Sec. 2, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 934, Sec. 70, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 685, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 521 (H.B. 833), Sec. 1, eff. June 17, 2005.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 324, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 105.04. HOURS OF SALE: WINE AND BEER RETAILER. The hours of sale and delivery for alcoholic beverages sold under a wine and beer retailer's permit or a wine and beer retailer's off-premise permit are the same as those prescribed for the sale of beer under Section 105.05 of this code, except that no sale shall be allowed

between 2 a.m. and noon on Sunday.

Acts 1977, 65th Leg., p. 512, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 71, eff. Sept. 1, 1993.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 325, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 105.04. HOURS OF SALE: WINE AND MALT BEVERAGE RETAILER. The hours of sale and delivery for alcoholic beverages sold under a wine and malt beverage retailer's permit or a wine and malt beverage retailer's off-premise permit are the same as those prescribed for the sale of malt beverages under Section 105.05, except that no sale shall be allowed between 2 a.m. and noon on Sunday.

Acts 1977, 65th Leg., p. 512, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 71, eff. Sept. 1, 1993.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 325, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 105.05. HOURS OF SALE: BEER. (a) No person may sell, offer for sale, or deliver beer at any time not permitted by this section.

(b) A person may sell, offer for sale, or deliver beer between 7 a.m. and midnight on any day except Sunday. On Sunday he may sell beer between midnight and 1:00 a.m. and between noon and midnight, except that permittees or licensees authorized to sell for on-premise consumption may sell beer between 10:00 a.m. and noon if the beer is served to a customer during the service of food to the customer.

(c) In a city or county having a population of 800,000 or more, according to the last preceding federal census, or 500,000 or more, according to the 22nd Decennial Census of the United States, as released by the Bureau of the Census on March 12, 2001, a holder of a

retail dealer's on-premise late hours license may also sell, offer for sale, and deliver beer between midnight and 2 a.m. on any day.

(d) In a city or county other than a city or county described by Subsection (c), the extended hours prescribed in Subsection (c) of this section, or any part of the extended hours prescribed in Subsection (c) of this section are effective for the sale, offer to sell, and delivery of beer by a holder of a retail dealer's on-premise late hours license:

(1) in the unincorporated areas of the county if the extended hours are adopted by an order of the commissioners court; and

(2) in an incorporated city or town if the extended hours are adopted by an ordinance of the governing body of the city or town.

(e) A violation of a city ordinance or order of a commissioners court adopted pursuant to Subsection (d) of this section is a violation of this code.

Acts 1977, 65th Leg., p. 512, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1970, ch. 777, Sec. 13, eff. Aug. 27, 1979; Acts 1993, 73rd Leg., ch. 923, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 934, Sec. 72, 73, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 685, Sec. 2, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 521 (H.B. 833), Sec. 2, eff. June 17, 2005.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 326, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 105.05. HOURS OF SALE: MALT BEVERAGES. (a) A person may sell, offer for sale, or deliver malt beverages only at a time permitted by this section.

(b) A person may sell, offer for sale, or deliver malt beverages between 7 a.m. and midnight on any day except Sunday. On Sunday a person may sell malt beverages between midnight and 1:00 a.m. and between noon and midnight, except that permittees or licensees authorized to sell for on-premise consumption may sell malt beverages between 10:00 a.m. and noon if the malt beverages are

served to a customer during the service of food to the customer.

(c) In a city or county having a population of 800,000 or more, according to the last preceding federal census, or 500,000 or more, according to the 22nd Decennial Census of the United States, as released by the Bureau of the Census on March 12, 2001, a holder of a retail dealer's on-premise license who holds a retailer late hours certificate may also sell, offer for sale, and deliver malt beverages between midnight and 2 a.m. on any day.

(d) In a city or county other than a city or county described by Subsection (c), the extended hours prescribed in Subsection (c) or any part of the extended hours prescribed in Subsection (c) are effective for the sale, offer to sell, and delivery of malt beverages by a holder of a retail dealer's on-premise license who holds a retailer late hours certificate:

(1) in the unincorporated areas of the county if the extended hours are adopted by an order of the commissioners court; and

(2) in an incorporated city or town if the extended hours are adopted by an ordinance of the governing body of the city or town.

(e) A violation of a city ordinance or order of a commissioners court adopted pursuant to Subsection (d) is a violation of this code.

Acts 1977, 65th Leg., p. 512, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1970, ch. 777, Sec. 13, eff. Aug. 27, 1979; Acts 1993, 73rd Leg., ch. 923, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 934, Sec. 72, 73, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 685, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 521 (H.B. 833), Sec. 2, eff. June 17, 2005.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 326, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 105.051. SALE OF BEER BY DISTRIBUTOR'S LICENSEE. The holder of a general, local, or branch distributor's license may sell, offer for sale, or deliver beer 24 hours a day Monday through Saturday and between midnight and 1 a.m. and between noon and

midnight on Sunday.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 74, eff. Sept. 1, 1993.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 7 (H.B. 2594), Sec. 2, eff. May 5, 2009.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 327, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 105.051. SALE OF MALT BEVERAGES BY DISTRIBUTOR'S LICENSEE. The holder of a general or branch distributor's license may sell, offer for sale, or deliver malt beverages 24 hours a day Monday through Saturday and between midnight and 1 a.m. and between noon and midnight on Sunday.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 74, eff. Sept. 1, 1993.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 7 (H.B. 2594), Sec. 2, eff. May 5, 2009.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 327, eff. September 1, 2021.

Sec. 105.06. HOURS OF CONSUMPTION. (a) In this section:

(1) "Extended hours area" means an area subject to the extended hours of sale provided in Section 105.03 or 105.05 of this code.

(2) "Standard hours area" means an area which is not an extended hours area.

(a-1) For the purposes of this section, a licensed or permitted premises is a public place.

(b) In a standard hours area, a person commits an offense if he consumes or possesses with intent to consume an alcoholic beverage in a public place at any time on Sunday between 1:15 a. m. and 12 noon or on any other day between 12:15 a. m. and 7 a. m.

(c) In an extended hours area, a person commits an offense if he consumes or possesses with intent to consume an alcoholic beverage in a public place at any time on Sunday between 2:15 a. m. and 12

noon and on any other day between 2:15 a. m. and 7 a. m.

(d) Proof that an alcoholic beverage was possessed with intent to consume in violation of this section requires evidence that the person consumed an alcoholic beverage on that day in violation of this section.

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

Acts 1977, 65th Leg., p. 512, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1993, 73rd Leg., ch. 923, Sec. 3, eff. Sept. 1, 1993. Amended by:

Acts 2005, 79th Leg., Ch. 628 (H.B. 2451), Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. 904), Sec. 23, eff. September 1, 2007.

Sec. 105.07. HOURS OF SALE AND CONSUMPTION: SPORTS VENUE. (a) In this section, "sports venue" means a public entertainment facility property, as defined by Section 108.73, that is primarily designed and used for live sporting events.

(b) Notwithstanding any other provision of this code, in addition to any other period during which the sale and consumption of alcohol is authorized under this code:

(1) a licensed or permitted premises located in a sports venue may sell alcoholic beverages between 10 a.m. and noon; and

(2) a person may consume alcoholic beverages at a sports venue between 10 a.m. and noon.

Added by Acts 2003, 78th Leg., ch. 946, Sec. 2, eff. Sept. 1, 2003. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 21.01, eff. Jan. 11, 2004.

Sec. 105.08. HOURS OF SALE AND CONSUMPTION: WINERY. The holder of a winery permit may sell, offer for sale, and deliver wine, and a person may consume wine on the premises of a winery:

(1) between 8 a.m. and midnight on any day except Sunday;

(2) between 10 a.m. and midnight on Sunday; and

(3) between midnight and 2 a.m. on New Year's Day.

Added by Acts 2005, 79th Leg., Ch. 84 (S.B. 571), Sec. 2, eff. May 17,

2005.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 394 (S.B. 131), Sec. 1, eff. September 1, 2013.

Sec. 105.081. HOURS OF SALE AND CONSUMPTION: DISTILLERY. (a) The holder of a distiller's and rectifier's permit may sell and offer for sale distilled spirits for on-premises consumption and a person may consume distilled spirits on the permitted premises during the same hours mixed beverages may be sold and offered for sale by a mixed beverage permit holder under Section 105.03(b).

(b) The holder of a distiller's and rectifier's permit may sell and offer for sale distilled spirits to ultimate consumers for off-premises consumption during the same hours as the holder of a package store permit may sell and offer for sale distilled spirits to ultimate consumers for off-premises consumption.

Added by Acts 2013, 83rd Leg., R.S., Ch. 106 (S.B. 905), Sec. 4, eff. September 1, 2013.

Text of section effective until September 1, 2021

Sec. 105.082. HOURS OF SALE AND CONSUMPTION: BREWER OR MANUFACTURER. (a) The holder of a brewer's permit may sell, offer for sale, and deliver ale or malt liquor and a person may consume ale or malt liquor on the brewer's premises:

(1) between 8 a.m. and midnight on any day except Sunday; and

(2) between 10 a.m. and midnight on Sunday.

(b) The holder of a manufacturer's license may sell, offer for sale, and deliver beer and a person may consume beer on the manufacturer's premises:

(1) between 8 a.m. and midnight on any day except Sunday; and

(2) between 10 a.m. and midnight on Sunday.

Added by Acts 2013, 83rd Leg., R.S., Ch. 535 (S.B. 518), Sec. 4, eff. June 14, 2013.
Redesignated from Alcoholic Beverage Code, Section 105.081 by Acts

2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(3), eff. September 1, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 328, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 105.082. HOURS OF SALE AND CONSUMPTION: BREWER. The holder of a brewer's license may sell, offer for sale, and deliver malt beverages and a person may consume malt beverages on the brewer's premises:

(1) between 8 a.m. and midnight on any day except Sunday; and

(2) between 10 a.m. and midnight on Sunday.

Added by Acts 2013, 83rd Leg., R.S., Ch. 535 (S.B. 518), Sec. 4, eff. June 14, 2013.
Redesignated from Alcoholic Beverage Code, Section 105.081 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(3), eff. September 1, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 328, eff. September 1, 2021.

Sec. 105.09. HOURS OF SALE AND CONSUMPTION: CERTAIN EVENTS. Notwithstanding any other provision of this code, in addition to any other period during which the sale and consumption of alcohol is authorized under this code:

(1) a licensed or permitted premises located at a festival, fair, or concert may sell alcoholic beverages between 10 a.m. and noon; and

(2) a person may consume alcoholic beverages at a festival, fair, or concert between 10 a.m. and noon.

Added by Acts 2005, 79th Leg., Ch. 239 (H.B. 168), Sec. 1, eff. September 1, 2005.
Renumbered from Alcoholic Beverage Code, Section 105.08 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(5), eff. September

1, 2007.

Sec. 105.10. PENALTY. (a) A person commits an offense if the person, in violation of this chapter or Section 32.17(a)(7):

(1) sells or offers for sale an alcoholic beverage during prohibited hours; or

(2) consumes or permits the consumption of an alcoholic beverage on the person's licensed or permitted premises during prohibited hours.

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

Added by Acts 2007, 80th Leg., R.S., Ch. 68 (S.B. 904), Sec. 24, eff. September 1, 2007.

CHAPTER 106. PROVISIONS RELATING TO AGE

Sec. 106.01. DEFINITION. In this code, "minor" means a person under 21 years of age.

Acts 1977, 65th Leg., p. 513, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 257, ch. 107, Sec. 8, eff. Sept. 1, 1981; Acts 1985, 69th Leg., ch. 285, Sec. 8, eff. Sept. 1, 1986; Acts 1985, 69th Leg., ch. 462, Sec. 9, eff. Sept. 1, 1986.

Sec. 106.02. PURCHASE OF ALCOHOL BY A MINOR. (a) A minor commits an offense if the minor purchases an alcoholic beverage. A minor does not commit an offense if the minor purchases an alcoholic beverage under the immediate supervision of a commissioned peace officer engaged in enforcing the provisions of this code.

(b) An offense under this section is punishable as provided by Section 106.071.

Acts 1977, 65th Leg., p. 513, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1991, 72nd Leg., ch. 163, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 934, Sec. 75, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1013, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1139, Sec. 1, eff. June 19, 1997.

Sec. 106.025. ATTEMPT TO PURCHASE ALCOHOL BY A MINOR. (a) A minor commits an offense if, with specific intent to commit an offense under Section 106.02 of this code, the minor does an act amounting to more than mere preparation that tends but fails to effect the commission of the offense intended.

(b) An offense under this section is punishable as provided by Section 106.071.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 76, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1013, Sec. 2, eff. Sept. 1, 1997.

Sec. 106.03. SALE TO MINORS. (a) A person commits an offense if with criminal negligence he sells an alcoholic beverage to a minor.

(b) A person who sells a minor an alcoholic beverage does not commit an offense if the minor falsely represents himself to be 21 years old or older by displaying an apparently valid proof of identification that contains a physical description and photograph consistent with the minor's appearance, purports to establish that the minor is 21 years of age or older, and was issued by a governmental agency. The proof of identification may include a driver's license or identification card issued by the Department of Public Safety, a passport, or a military identification card.

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

(d) Subsection (b) does not apply to a person who accesses electronically readable information under Section 109.61 that identifies a driver's license or identification certificate as invalid.

Acts 1977, 65th Leg., p. 513, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 257, ch. 107, Sec. 9, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 2649, ch. 456, Sec. 4, eff. Sept. 1, 1983; Acts 1985, 69th Leg., ch. 285, Sec. 9, eff. Sept. 1, 1986; Acts 1985, 69th Leg., ch. 462, Sec. 10, eff. Sept. 1, 1986; Acts 1987, 70th Leg., ch. 582, Sec. 1, eff. Jan. 1, 1988; Acts 1997, 75th Leg., ch. 1013, Sec. 3, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 391 (S.B. 1465), Sec. 3, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 488 (S.B. 693), Sec. 1, eff. June 19, 2009.

Sec. 106.04. CONSUMPTION OF ALCOHOL BY A MINOR. (a) A minor commits an offense if he consumes an alcoholic beverage.

(b) It is an affirmative defense to prosecution under this section that the alcoholic beverage was consumed in the visible presence of the minor's adult parent, guardian, or spouse.

(c) An offense under this section is punishable as provided by Section 106.071.

(d) A minor who commits an offense under this section and who has been previously convicted twice or more of offenses under this section is not eligible for deferred disposition. For the purposes of this subsection:

(1) an adjudication under Title 3, Family Code, that the minor engaged in conduct described by this section is considered a conviction of an offense under this section; and

(2) an order of deferred disposition for an offense alleged under this section is considered a conviction of an offense under this section.

(e) Subsection (a) does not apply to a minor who:

(1) requested emergency medical assistance in response to the possible alcohol overdose of the minor or another person;

(2) was the first person to make a request for medical assistance under Subdivision (1); and

(3) if the minor requested emergency medical assistance for the possible alcohol overdose of another person:

(A) remained on the scene until the medical assistance arrived; and

(B) cooperated with medical assistance and law enforcement personnel.

(f) Except as provided by Subsection (g), Subsection (a) does not apply to a minor who reports the sexual assault of the minor or another person, or is the victim of a sexual assault reported by another person, to:

(1) a health care provider treating the victim of the sexual assault;

(2) an employee of a law enforcement agency, including an employee of a campus police department of an institution of higher

education; or

(3) the Title IX coordinator of an institution of higher education or another employee of the institution responsible for responding to reports of sexual assault.

(g) A minor is entitled to raise the defense provided by Subsection (f) in the prosecution of an offense under this section only if the minor is in violation of this section at the time of the commission of a sexual assault that is:

(1) reported by the minor under Subsection (f); or

(2) committed against the minor and reported by another person under Subsection (f).

(h) A minor who commits a sexual assault that is reported under Subsection (f) is not entitled to raise the defense provided by Subsection (f) in the prosecution of the minor for an offense under this section.

Acts 1977, 65th Leg., p. 514, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1991, 72nd Leg., ch. 163, Sec. 2, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 934, Sec. 77, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1013, Sec. 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1207, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 842 (H.B. 3474), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1243 (S.B. 1331), Sec. 1, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 204 (S.B. 966), Sec. 1, eff. September 1, 2017.

Sec. 106.041. DRIVING OR OPERATING WATERCRAFT UNDER THE INFLUENCE OF ALCOHOL BY MINOR. (a) A minor commits an offense if the minor operates a motor vehicle in a public place, or a watercraft, while having any detectable amount of alcohol in the minor's system.

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

(c) If it is shown at the trial of the defendant that the defendant is a minor who is not a child and who has been previously convicted at least twice of an offense under this section, the

offense is punishable by:

(1) a fine of not less than $500 or more than $2,000;

(2) confinement in jail for a term not to exceed 180 days; or

(3) both the fine and confinement.

(d) In addition to any fine and any order issued under Section 106.115, the court shall order a minor convicted of an offense under this section to perform community service for:

(1) not less than 20 or more than 40 hours, if the minor has not been previously convicted of an offense under this section; or

(2) not less than 40 or more than 60 hours, if the minor has been previously convicted of an offense under this section.

(e) Community service ordered under this section must be related to education about or prevention of misuse of alcohol.

(f) A minor who commits an offense under this section and who has been previously convicted twice or more of offenses under this section is not eligible for deferred disposition or deferred adjudication.

(g) An offense under this section is not a lesser included offense under Section 49.04, 49.045, or 49.06, Penal Code.

(h) For the purpose of determining whether a minor has been previously convicted of an offense under this section:

(1) an adjudication under Title 3, Family Code, that the minor engaged in conduct described by this section is considered a conviction under this section; and

(2) an order of deferred disposition for an offense alleged under this section is considered a conviction of an offense under this section.

(i) A peace officer who is charging a minor with committing an offense under this section is not required to take the minor into custody but may issue a citation to the minor that contains written notice of the time and place the minor must appear before a magistrate, the name and address of the minor charged, and the offense charged.

(j) In this section:

(1) "Child" has the meaning assigned by Section 51.02, Family Code.

(2) "Motor vehicle" has the meaning assigned by Section 32.34(a), Penal Code.

(3) "Public place" has the meaning assigned by Section 1.07, Penal Code.

(4) "Watercraft" has the meaning assigned by Section 49.01, Penal Code.

Added by Acts 1997, 75th Leg., ch. 1013, Sec. 5, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 1207, Sec. 2, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 949 (H.B. 1575), Sec. 29, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1348 (S.B. 328), Sec. 2, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1348 (S.B. 328), Sec. 3, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1348 (S.B. 328), Sec. 4, eff. September 1, 2009.

Sec. 106.05. POSSESSION OF ALCOHOL BY A MINOR. (a) Except as provided in Subsection (b) of this section, a minor commits an offense if he possesses an alcoholic beverage.

(b) A minor may possess an alcoholic beverage:

(1) while in the course and scope of the minor's employment if the minor is an employee of a licensee or permittee and the employment is not prohibited by this code;

(2) if the minor is in the visible presence of his adult parent, guardian, or spouse, or other adult to whom the minor has been committed by a court;

(3) if the minor is under the immediate supervision of a commissioned peace officer engaged in enforcing the provisions of this code; or

(4) if the beverage is lawfully provided to the minor under Section 106.16.

(c) An offense under this section is punishable as provided by Section 106.071.

(d) Subsection (a) does not apply to a minor who:

(1) requested emergency medical assistance in response to the possible alcohol overdose of the minor or another person;

(2) was the first person to make a request for medical

assistance under Subdivision (1); and

(3) if the minor requested emergency medical assistance for the possible alcohol overdose of another person:

(A) remained on the scene until the medical assistance arrived; and

(B) cooperated with medical assistance and law enforcement personnel.

(e) Except as provided by Subsection (f), Subsection (a) does not apply to a minor who reports the sexual assault of the minor or another person, or is the victim of a sexual assault reported by another person, to:

(1) a health care provider treating the victim of the sexual assault;

(2) an employee of a law enforcement agency, including an employee of a campus police department of an institution of higher education; or

(3) the Title IX coordinator of an institution of higher education or another employee of the institution responsible for responding to reports of sexual assault.

(f) A minor is entitled to raise the defense provided by Subsection (e) in the prosecution of an offense under this section only if the minor is in violation of this section at the time of the commission of a sexual assault that is:

(1) reported by the minor under Subsection (e); or

(2) committed against the minor and reported by another person under Subsection (e).

(g) A minor who commits a sexual assault that is reported under Subsection (e) is not entitled to raise the defense provided by Subsection (e) in the prosecution of the minor for an offense under this section.

Acts 1977, 65th Leg., p. 514, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1973, ch. 777, Sec. 21, eff. Aug. 27, 1979; Acts 1991, 72nd Leg., ch. 163, Sec. 3, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 934, Sec. 78, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1013, Sec. 6, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1139, Sec. 2, eff. June 19, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 842 (H.B. 3474), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1243 (S.B. 1331), Sec. 2, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 514 (H.B. 909), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 204 (S.B. 966), Sec. 2, eff. September 1, 2017.

Sec. 106.06. PURCHASE OF ALCOHOL FOR A MINOR; FURNISHING ALCOHOL TO A MINOR.

Text of subsec. (a) as amended by Acts 1993, 73rd Leg., ch. 437, Sec. 4

(a) Except as provided in Subsection (b) of this section, a person commits an offense if he purchases an alcoholic beverage for or gives or makes available an alcoholic beverage to a minor with criminal negligence.

Text of subsec. (a) as amended by Acts 1993, 73rd Leg., ch. 934, Sec. 79

(a) Except as provided in Subsection (b) of this section, a person commits an offense if he purchases an alcoholic beverage for or gives or with criminal negligence makes available an alcoholic beverage to a minor.

(b) A person may purchase an alcoholic beverage for or give an alcoholic beverage to a minor if the person is:

(1) the minor's adult parent, guardian, or spouse, or an adult in whose custody the minor has been committed by a court, and is visibly present when the minor possesses or consumes the alcoholic beverage; or

(2) a person lawfully providing an alcoholic beverage to a minor under Section 106.16.

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

(d) A judge, acting under Chapter 42A, Code of Criminal Procedure, who places a defendant charged with an offense under this section on community supervision under that chapter shall, if the defendant committed the offense at a gathering where participants were involved in the abuse of alcohol, including binge drinking or forcing or coercing individuals to consume alcohol, in addition to any other condition imposed by the judge:

(1) require the defendant to:

(A) perform community service for not less than 20 or more than 40 hours; and

(B) attend an alcohol awareness program approved under Section 106.115; and

(2) order the Department of Public Safety to suspend the driver's license or permit of the defendant or, if the defendant does not have a driver's license or permit, to deny the issuance of a driver's license or permit to the defendant for 180 days.

(e) Community service ordered under Subsection (d) is in addition to any community service ordered by the judge under Article 42A.304, Code of Criminal Procedure, and must be related to education about or prevention of misuse of alcohol if programs or services providing that education are available in the community in which the court is located. If programs or services providing that education are not available, the court may order community service that the court considers appropriate for rehabilitative purposes.

Acts 1977, 65th Leg., p. 514, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1993, 73rd Leg., ch. 437, Sec. 4, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 934, Sec. 79, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1013, Sec. 7, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1097, Sec. 2, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 842 (H.B. 3474), Sec. 3, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1243 (S.B. 1331), Sec. 3, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 514 (H.B. 909), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.01, eff. January 1, 2017.

Sec. 106.07. MISREPRESENTATION OF AGE BY A MINOR. (a) A minor commits an offense if he falsely states that he is 21 years of age or older or presents any document that indicates he is 21 years of age or older to a person engaged in selling or serving alcoholic beverages.

(b) An offense under this section is punishable as provided by

Section 106.071.

Acts 1977, 65th Leg., p. 514, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 257, ch. 107, Sec. 10, eff. Sept. 1, 1981; Acts 1985, 69th Leg., ch. 285, Sec. 10, eff. Sept. 1, 1986; Acts 1985, 69th Leg., ch. 462, Sec. 11, eff. Sept. 1, 1986; Acts 1997, 75th Leg., ch. 1013, Sec. 8, eff. Sept. 1, 1997.

Sec. 106.071. PUNISHMENT FOR ALCOHOL-RELATED OFFENSE BY MINOR. (a) This section applies to an offense under Section 106.02, 106.025, 106.04, 106.05, or 106.07.

(b) Except as provided by Subsection (c), an offense to which this section applies is a Class C misdemeanor.

(c) If it is shown at the trial of the defendant that the defendant is a minor who is not a child and who has been previously convicted at least twice of an offense to which this section applies, the offense is punishable by:

(1) a fine of not less than $250 or more than $2,000;

(2) confinement in jail for a term not to exceed 180 days; or

(3) both the fine and confinement.

(d) In addition to any fine and any order issued under Section 106.115:

(1) the court shall order a minor placed on deferred disposition for or convicted of an offense to which this section applies to perform community service for:

(A) not less than eight or more than 12 hours, if the minor has not been previously convicted of an offense to which this section applies; or

(B) not less than 20 or more than 40 hours, if the minor has been previously convicted once of an offense to which this section applies; and

(2) the court shall order the Department of Public Safety to suspend the driver's license or permit of a minor convicted of an offense to which this section applies or, if the minor does not have a driver's license or permit, to deny the issuance of a driver's license or permit for:

(A) 30 days, if the minor has not been previously convicted of an offense to which this section applies;

(B) 60 days, if the minor has been previously convicted once of an offense to which this section applies; or

(C) 180 days, if the minor has been previously convicted twice or more of an offense to which this section applies.

(e) Community service ordered under this section must be related to education about or prevention of misuse of alcohol or drugs, as applicable, if programs or services providing that education are available in the community in which the court is located. If programs or services providing that education are not available, the court may order community service that it considers appropriate for rehabilitative purposes.

(f) In this section:

(1) a prior adjudication under Title 3, Family Code, that the minor engaged in conduct described by this section is considered a conviction; and

(2) a prior order of deferred disposition for an offense alleged under this section is considered a conviction.

(g) In this section, "child" has the meaning assigned by Section 51.02, Family Code.

(h) A driver's license suspension under this section takes effect on the 11th day after the date the minor is convicted.

(i) A defendant who is not a child and who has been previously convicted at least twice of an offense to which this section applies is not eligible to receive a deferred disposition or deferred adjudication.

Added by Acts 1997, 75th Leg., ch. 1013, Sec. 9, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 76, Sec. 4, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1207, Sec. 3, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 949 (H.B. 1575), Sec. 30, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1004 (H.B. 642), Sec. 1, eff. September 1, 2015.

Sec. 106.08. IMPORTATION BY A MINOR. No minor may import into this state or possess with intent to import into this state any alcoholic beverage.

Acts 1977, 65th Leg., p. 515, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 106.09. EMPLOYMENT OF MINORS. (a) Except as provided by Subsections (b), (c), (e), and (f), no person may employ a person under 18 years of age to sell, prepare, serve, or otherwise handle liquor, or to assist in doing so.

(b) A holder of a wine only package store permit may employ a person 16 years old or older to work in any capacity.

(c) A holder of a permit or license providing for the on-premises consumption of alcoholic beverages may employ a person under 18 years of age to work in any capacity other than the actual selling, preparing, or serving of alcoholic beverages.

(d) A person who is 18, 19, or 20 years of age is not prohibited from acting as an agent under Chapter 35, 36, or 73, provided the person may carry out the activities authorized by those chapters only while in the actual course and scope of the person's employment.

(e) The holder of a permit or license providing for the on-premises consumption of alcoholic beverages who also holds a food and beverage certificate may employ a person under 18 years of age to work as a cashier for transactions involving the sale of alcoholic beverages if the alcoholic beverages are served by a person 18 years of age or older.

(f) The holder of a permit or license providing for the on-premises consumption of alcoholic beverages that derives less than 50 percent of its gross receipts for the premises from the sale or service of alcoholic beverages may employ a person under 18 years of age to work as a cashier for transactions involving the sale of alcoholic beverages if the alcoholic beverages are served by a person 18 years of age or older.

Acts 1977, 65th Leg., p. 515, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 258, ch. 107, Sec. 11, 12, eff. Sept. 1, 1981; Acts 1987, 70th Leg., ch. 754, Sec. 1, eff. Aug. 31, 1987; Acts 2003, 78th Leg., ch. 499, Sec. 1, eff. Sept. 1, 2003. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. 1090), Sec. 18, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 46 (S.B. 1651), Sec. 1, eff. May 19, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 329, eff. September 1, 2019.

Sec. 106.10. PLEA OF GUILTY BY MINOR. No minor may plead guilty to an offense under this chapter except in open court before a judge.

Acts 1977, 65th Leg., p. 515, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 106.115. ATTENDANCE AT ALCOHOL AWARENESS COURSE; LICENSE SUSPENSION.

(a) On the placement of a minor on deferred disposition for an offense under Section 49.02, Penal Code, or under Section 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07, the court shall require the defendant to attend an alcohol awareness program approved by the Texas Department of Licensing and Regulation under this section, a drug education program approved by the Department of State Health Services in accordance with Section 521.374, Transportation Code, or a drug and alcohol driving awareness program approved by the Texas Education Agency. On conviction of a minor of an offense under one or more of those sections, the court, in addition to assessing a fine as provided by those sections, shall require a defendant who has not been previously convicted of an offense under one of those sections to attend an alcohol awareness program, a drug education program, or a drug and alcohol driving awareness program described by this subsection. If the defendant has been previously convicted once or more of an offense under one or more of those sections, the court may require the defendant to attend an alcohol awareness program, a drug education program, or a drug and alcohol driving awareness program described by this subsection. If the defendant is younger than 18 years of age, the court may require the parent or guardian of the defendant to attend the program with the defendant. The Texas Department of Licensing and Regulation or Texas Commission of Licensing and Regulation, as appropriate:

(1) is responsible for the administration of the certification of approved alcohol awareness programs;

(2) may charge a nonrefundable application fee for:

(A) initial certification of the approval; or

(B) renewal of the certification;

(3) shall adopt rules regarding alcohol awareness programs approved under this section; and

(4) shall monitor, coordinate, and provide training to a person who provides an alcohol awareness program.

(b) When requested, an alcohol awareness program may be taught in languages other than English.

(b-1) If the defendant resides in a county with a population of 75,000 or less and access to an alcohol awareness program is not readily available in the county, the court may allow the defendant to take an online alcohol awareness program if the Texas Department of Licensing and Regulation approves online courses or require the defendant to perform not less than eight hours of community service related to alcohol abuse prevention or treatment and approved by the Texas Department of Licensing and Regulation under Subsection (b-3) instead of attending the alcohol awareness program. Community service ordered under this subsection is in addition to community service ordered under Section 106.071(d).

(b-2) For purposes of Subsection (b-1), if the defendant is enrolled in an institution of higher education located in a county in which access to an alcohol awareness program is readily available, the court may consider the defendant to be a resident of that county. If the defendant is not enrolled in such an institution of higher education or if the court does not consider the defendant to be a resident of the county in which the institution is located, the defendant's residence is the residence listed on the defendant's driver's license or personal identification certificate issued by the Department of Public Safety. If the defendant does not have a driver's license or personal identification certificate issued by the Department of Public Safety, the defendant's residence is the residence on the defendant's voter registration certificate. If the defendant is not registered to vote, the defendant's residence is the residence on file with the public school district on which the defendant's enrollment is based. If the defendant is not enrolled in public school, the defendant's residence is determined as provided by commission rule.

(b-3) The Texas Department of Licensing and Regulation shall create a list of community services related to alcohol abuse prevention or treatment in each county in the state to which a judge

may sentence a defendant under Subsection (b-1).

(c) The court shall require the defendant to present to the court, within 90 days of the date of final conviction, evidence in the form prescribed by the court that the defendant, as ordered by the court, has satisfactorily completed an alcohol awareness program or performed the required hours of community service. For good cause the court may extend this period by not more than 90 days. If the defendant presents the required evidence within the prescribed period, the court may reduce the assessed fine to an amount equal to no less than one-half of the amount of the initial fine.

(d) If the defendant does not present the required evidence within the prescribed period, the court:

(1) shall order the Department of Public Safety to:

(A) suspend the defendant's driver's license or permit for a period not to exceed six months or, if the defendant does not have a license or permit, to deny the issuance of a license or permit to the defendant for that period; or

(B) if the defendant has been previously convicted of an offense under one or more of the sections listed in Subsection (a), suspend the defendant's driver's license or permit for a period not to exceed one year or, if the defendant does not have a license or permit, to deny the issuance of a license or permit to the defendant for that period; and

(2) may order the defendant or the parent, managing conservator, or guardian of the defendant to do any act or refrain from doing any act if the court determines that doing the act or refraining from doing the act will increase the likelihood that the defendant will present evidence to the court that the defendant has satisfactorily completed an alcohol awareness program or performed the required hours of community service.

(e) The Department of Public Safety shall send notice of the suspension or prohibition order issued under Subsection (d) by first class mail to the defendant. The notice must include the date of the suspension or prohibition order, the reason for the suspension or prohibition, and the period covered by the suspension or prohibition.

Added by Acts 1991, 72nd Leg., ch. 163, Sec. 4, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 80, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 615, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 577, Sec. 17, eff. Sept. 1, 1997; Acts

1997, 75th Leg., ch. 1013, Sec. 10, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 2.01, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 76, Sec. 5, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1207, Sec. 4, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1409, Sec. 7, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1056 (H.B. 1357), Sec. 1, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 656 (H.B. 1020), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 848 (H.B. 232), Sec. 1, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.223, eff. September 1, 2017.

Acts 2015, 84th Leg., R.S., Ch. 1004 (H.B. 642), Sec. 2, eff. September 1, 2015.

Sec. 106.116. REPORTS OF COURT TO COMMISSION. Unless the clerk is otherwise required to include the information in a report submitted under Section 101.09, the clerk of a court, including a justice court, municipal court, or juvenile court, shall furnish to the commission on request a notice of a conviction of an offense under this chapter or an adjudication under Title 3, Family Code, for conduct that constitutes an offense under this chapter. The report must be in the form prescribed by the commission.

Added by Acts 1997, 75th Leg., ch. 1013, Sec. 11, eff. Sept. 1, 1997.

Sec. 106.117. REPORT OF COURT TO DEPARTMENT OF PUBLIC SAFETY. (a) Each court, including a justice court, municipal court, or juvenile court, shall furnish to the Department of Public Safety a notice of each:

(1) adjudication under Title 3, Family Code, for conduct that constitutes an offense under this chapter;

(2) conviction of an offense under this chapter;

(3) order of deferred disposition for an offense alleged under this chapter; and

(4) acquittal of an offense under Section 106.041.

(b) The notice must be in a form prescribed by the Department of Public Safety and must contain the driver's license number of the defendant, if the defendant holds a driver's license.

(c) The Department of Public Safety shall maintain appropriate records of information in the notices and shall provide the information to law enforcement agencies and courts as necessary to enable those agencies and courts to carry out their official duties. The information is admissible in any action in which it is relevant. A person who holds a driver's license having the same number that is contained in a record maintained under this section is presumed to be the person to whom the record relates. The presumption may be rebutted only by evidence presented under oath.

(d) The information maintained under this section is confidential and may not be disclosed except as provided by this section. A provision of Chapter 58, Family Code, or other law limiting collection or reporting of information on a juvenile or other minor or requiring destruction of that information does not apply to information reported and maintained under this section.

Added by Acts 1997, 75th Leg., ch. 1013, Sec. 11, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1207, Sec. 5, eff. Sept. 1, 1999.

Sec. 106.12. EXPUNCTION OF CONVICTION OR ARREST RECORDS OF A MINOR. (a) Any person convicted of not more than one violation of this code while a minor, on attaining the age of 21 years, may apply to the court in which he was convicted to have the conviction expunged.

(b) The application shall contain the applicant's sworn statement that he was not convicted of any violation of this code while a minor other than the one he seeks to have expunged.

(c) If the court finds that the applicant was not convicted of any other violation of this code while he was a minor, the court shall order the conviction, together with all complaints, verdicts, sentences, prosecutorial and law enforcement records, and other documents relating to the offense, to be expunged from the applicant's record. After entry of the order, the applicant shall be released from all disabilities resulting from the conviction, and the conviction may not be shown or made known for any purpose.

(d) Any person placed under a custodial or noncustodial arrest for not more than one violation of this code while a minor and who was not convicted of the violation may apply to the court in which the person was charged to have the records of the arrest expunged. The application must contain the applicant's sworn statement that the applicant was not arrested for a violation of this code other than the arrest the applicant seeks to expunge. If the court finds the applicant was not arrested for any other violation of this code while a minor, the court shall order all complaints, verdicts, prosecutorial and law enforcement records, and other documents relating to the violation to be expunged from the applicant's record.

(e) The court shall charge an applicant a reimbursement fee in the amount of $30 for each application for expunction filed under this section to defray the cost of notifying state agencies of orders of expunction under this section.

(f) The procedures for expunction provided under this section are separate and distinct from the expunction procedures under Chapter 55, Code of Criminal Procedure.

Acts 1977, 65th Leg., p. 515, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1981, 67th Leg., p. 258, ch. 107, Sec. 13, eff. Sept. 1, 1981; Acts 1985, 69th Leg., ch. 285, Sec. 11, eff. Sept. 1, 1986; Acts 1985, 69th Leg., ch. 462, Sec. 12, eff. Sept. 1, 1986.
Amended by:

Acts 2005, 79th Leg., Ch. 886 (S.B. 1426), Sec. 1, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 464 (H.B. 2059), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 464 (H.B. 2059), Sec. 2, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 2.01, eff. January 1, 2020.

Sec. 106.13. SANCTIONS AGAINST RETAILER. (a) Except as provided in Subsections (b) and (c) of this section, the commission or administrator may cancel or suspend for not more than 90 days a retail license or permit or a private club registration permit if it is found, on notice and hearing, that the licensee or permittee with criminal negligence sold, served, dispensed, or delivered an

alcoholic beverage to a minor or with criminal negligence permitted a minor to violate Section 106.04 or 106.05 of this code on the licensed premises.

(b) For a second offense the commission or administrator may cancel the license or permit or suspend it for not more than six months. For a third offense within a period of 36 consecutive months the commission or administrator may cancel the permit or suspend it for not more than 12 months.

(c) The commission or administrator may relax the provisions of this section concerning suspension and cancellation and assess a sanction the commission or administrator finds just under the circumstances if, at a hearing, the licensee or permittee establishes to the satisfaction of the commission or administrator:

(1) that the violation could not reasonably have been prevented by the permittee or licensee by the exercise of due diligence;

(2) that the permittee or licensee was entrapped; or

(3) that an agent, servant, or employee of the permittee or licensee violated this code without the knowledge of the permittee or licensee.

Acts 1977, 65th Leg., p. 516, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1993, 73rd Leg., ch. 437, Sec. 5, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 934, Sec. 81, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 798, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1097, Sec. 1, eff. Sept. 1, 2001.

Sec. 106.14. ACTIONS OF EMPLOYEE. (a) For purposes of this chapter and any other provision of this code relating to the sales, service, dispensing, or delivery of alcoholic beverages to a person who is not a member of a private club on the club premises, a minor, or an intoxicated person or the consumption of alcoholic beverages by a person who is not a member of a private club on the club premises, a minor, or an intoxicated person, the actions of an employee shall not be attributable to the employer if:

(1) the employer requires its employees to attend a commission-approved seller training program;

(2) the employee has actually attended such a training program; and

(3) the employer has not directly or indirectly encouraged the employee to violate such law.

(b) The commission shall adopt rules or policies establishing the minimum requirements for approved seller training programs. Upon application, the commission shall approve seller training programs meeting such requirements that are sponsored either privately, by public community colleges, or by public or private institutions of higher education that offer a four-year undergraduate program and a degree or certificate in hotel or motel management, restaurant management, or travel or tourism management. The commission may charge an application fee to be set by the commission in such amount as is necessary to defray the expense of processing the application.

(c) The commission may approve under this section a seller training program sponsored by a licensee or permittee for the purpose of training its employees whether or not such employees are located at the same premises. This subsection shall only apply to licensees or permittees who employ at least 150 persons at any one time during the license or permit year who sell, serve, or prepare alcoholic beverages.

(d) The commission may approve under this section a seller training program conducted by a hotel management company or a hotel operating company for the employees of five or more hotels operated or managed by the company if:

(1) the seller training program is administered through the corporate offices of the company; and

(2) the hotels employ a total of at least 200 persons at one time during the license or permit year who sell, serve, or prepare alcoholic beverages.

(e) After notice and hearing, the commission may cancel or suspend the commission's approval of a seller training program, the commission's certification of a trainer to teach a seller training program, or the commission's certification of a seller-server if the program, trainer, or seller-server violates this code or a commission rule. The commission may give a program, trainer, or seller-server the opportunity to pay a civil penalty rather than be subject to suspension under this subsection. Sections 11.62 through 11.67 apply to the program approval or certification as if the program approval or certification were a license or permit under this code.

Added by Acts 1987, 70th Leg., ch. 582, Sec. 3, eff. Sept. 1, 1987.

Amended by Acts 1989, 71st Leg., ch. 477, Sec. 1, eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 934, Sec. 82, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 270, Sec. 1, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 643, Sec. 1, eff. Sept. 1, 2003.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 158 (H.B. 1952), Sec. 1, eff. May 28, 2011.

Sec. 106.15. PROHIBITED ACTIVITIES BY PERSONS YOUNGER THAN 18. (a) A permittee or licensee commits an offense if he employs, authorizes, permits, or induces a person younger than 18 years of age to dance with another person in exchange for a benefit, as defined by Section 1.07, Penal Code, on the premises covered by the permit or license.

(b) An offense under Subsection (a) is a Class A misdemeanor.

(c) In addition to a penalty imposed under Subsection (b), the commission or administrator shall:

(1) suspend for a period of five days the license or permit of a person convicted of a first offense under Subsection (a);

(2) suspend for a period of 60 days the license or permit of a person convicted of a second offense under Subsection (a); and

(3) cancel the license or permit of a person convicted of a third offense under Subsection (a).

(d) This section does not apply to a gift or benefit given for a dance at a wedding, anniversary, or similar event.

(e) A person does not commit an offense under Subsection (a) if the person younger than 18 years of age falsely represents the person's age to be at least 18 years of age by displaying an apparently valid Texas driver's license or an identification card issued by the Department of Public Safety containing a physical description consistent with the person's appearance.

Added by Acts 1999, 76th Leg., ch. 80, Sec. 2, eff. Sept. 1, 1999.

Sec. 106.16. EXCEPTION FOR CERTAIN COURSE WORK. (a) In this section:

(1) "Career school or college" has the meaning assigned by Section 132.001, Education Code.

(2) "Taste" means to draw a beverage into the mouth without swallowing or otherwise consuming the beverage.

Text of subsection effective until September 1, 2021

(b) Notwithstanding any other law, a minor may taste an alcoholic beverage if:

(1) the minor:

(A) is at least 18 years old; and

(B) is enrolled:

(i) as a student at a public or private institution of higher education or a career school or college that offers a program in culinary arts, viticulture, enology or wine technology, brewing or beer technology, or distilled spirits production or technology; and

(ii) in a course that is part of a program described by Subparagraph (i);

(2) the beverage is tasted for educational purposes as part of the curriculum for the course described by Subdivision (1)(B)(ii);

(3) the beverage is not purchased by the minor; and

(4) the service and tasting of the beverage is supervised by a faculty or staff member who is at least 21 years of age.

Text of subsection effective on September 1, 2021

(b) Notwithstanding any other law, a minor may taste an alcoholic beverage if:

(1) the minor:

(A) is at least 18 years old; and

(B) is enrolled:

(i) as a student at a public or private institution of higher education or a career school or college that offers a program in culinary arts, viticulture, enology or wine technology, brewing or malt beverage technology, or distilled spirits production or technology; and

(ii) in a course that is part of a program described by Subparagraph (i);

(2) the beverage is tasted for educational purposes as part of the curriculum for the course described by Subdivision (1)(B)(ii);

(3) the beverage is not purchased by the minor; and

(4) the service and tasting of the beverage is supervised by a faculty or staff member who is at least 21 years of age.

(c) A public or private institution of higher education or a

career school or college is not required to hold a license or permit to engage in the activities authorized under this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 514 (H.B. 909), Sec. 3, eff. September 1, 2015.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 330, eff. September 1, 2021.

CHAPTER 107. TRANSPORTATION AND IMPORTATION

Sec. 107.01. TRANSPORTATION OF LIQUOR: STATEMENT REQUIRED. (a) No person may transport liquor into this state or on a public highway, street, or alley in this state unless the person accompanying or in charge of the shipment has with him, available for exhibition and inspection, a written statement furnished and signed by the shipper showing the name and address of the consignor and the consignee, the origin and destination of the shipment, and any other information required by rule or regulation of the commission.

(b) The person in charge of the shipment while it is being transported shall exhibit the statement to the commission, an authorized representative of the commission, or a peace officer on demand, and it is a violation of this code to fail or refuse to do so. The representative or officer shall accept the written statement as prima facie evidence of the legal right to transport the liquor.

Acts 1977, 65th Leg., p. 516, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 107.02. TRANSPORTATION OF BEER: STATEMENT REQUIRED. (a) It is lawful for a person to transport beer from any place where its sale, manufacture, or distribution is authorized to another place in the state where its sale, manufacture, or distribution is authorized, or from the state boundary to a place where its sale, manufacture, or distribution is authorized, even though the route of transportation may cross a dry area.

(a-1) A person transporting beer to the premises of a distributor, including to a location from which the distributor is temporarily conducting business under Section 109.62, shall provide

to the consignee a shipping invoice that clearly states:

(1) the name and address of the consignor and consignee;

(2) the origin and destination of the shipment; and

(3) any other information required by this code or commission rule, including the brands, sizes of containers, and quantities of beer contained in the shipment.

(b) A shipment of beer must be accompanied by a written statement furnished and signed by the shipper showing:

(1) the name and address of the consignor and consignee;

(2) the origin and destination of the shipment; and

(3) any other information required by the commission or administrator.

(c) The person in charge of the shipment while it is being transported shall exhibit the written statement to any representative of the commission or peace officer who demands to see it. The statement shall be accepted by the representative or peace officer as prima facie evidence of the legal right to transport the beer.

(d) A person who transports beer not accompanied by the required statement, or who fails to exhibit the statement after a lawful demand, violates this code.

Acts 1977, 65th Leg., p. 517, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 517 (H.B. 2035), Sec. 2, eff. June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 331, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 107.02. TRANSPORTATION OF MALT BEVERAGES: STATEMENT REQUIRED. (a) It is lawful for a person to transport malt beverages from any place where its sale, manufacture, or distribution is authorized to another place in the state where its sale, manufacture, or distribution is authorized, or from the state boundary to a place where its sale, manufacture, or distribution is authorized, even though the route of transportation may cross a dry area.

(a-1) A person transporting malt beverages to the premises of a distributor, including to a location from which the distributor is temporarily conducting business under Section 109.62, shall provide

to the consignee a shipping invoice that clearly states:

(1) the name and address of the consignor and consignee;

(2) the origin and destination of the shipment; and

(3) any other information required by this code or commission rule, including the brands, sizes of containers, and quantities of malt beverages contained in the shipment.

(b) A shipment of malt beverages must be accompanied by a written statement furnished and signed by the shipper showing:

(1) the name and address of the consignor and consignee;

(2) the origin and destination of the shipment; and

(3) any other information required by the commission or administrator.

(c) The person in charge of the shipment while it is being transported shall exhibit the written statement to any representative of the commission or peace officer who demands to see it. The statement shall be accepted by the representative or peace officer as prima facie evidence of the legal right to transport the malt beverages.

(d) A person who transports malt beverages not accompanied by the required statement, or who fails to exhibit the statement after a lawful demand, violates this code.

Acts 1977, 65th Leg., p. 517, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 517 (H.B. 2035), Sec. 2, eff. June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 331, eff. September 1, 2021.

Sec. 107.03. DELIVERY OF LIQUOR IN DRY AREA. No carrier may transport and deliver liquor to a person in a dry area in this state except for a purpose authorized by this code.

Acts 1977, 65th Leg., p. 517, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 107.04. DELIVERY OF BEER IN DRY AREA. A common carrier may not deliver beer in a dry area unless it is consigned to a local

or general distributor's licensee who has previously stated that he intends to transport it to a licensed place of business in a wet area. A common carrier who transports beer to a distributor in a dry area shall comply strictly with this section and Section 107.02 of this code.

Acts 1977, 65th Leg., p. 517, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 332, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 107.04. DELIVERY OF MALT BEVERAGES IN DRY AREA. A common carrier may not deliver malt beverages in a dry area unless the malt beverages are consigned to a general distributor's licensee who has previously stated that the licensee intends to transport the malt beverages to a licensed place of business in a wet area. A common carrier who transports malt beverages to a distributor in a dry area shall comply strictly with this section and Section 107.02.

Acts 1977, 65th Leg., p. 517, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 332, eff. September 1, 2021.

Sec. 107.05. IMPORTATION OF LIQUOR. (a) No person may import liquor into the state and deliver it to a person not authorized to import it.

(b) This section does not apply to the transportation of liquor into the state as authorized by Section 107.07 of this code.

Acts 1977, 65th Leg., p. 517, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 107.06. IMPORTATION OF BEER. (a) No person may import beer into the state except the holder of a manufacturer's or general, local, or branch distributor's license.

(b) No person may transport beer into this state unless it is consigned and delivered to one of the licensees named in Subsection (a) of this section.

(c) This section does not apply to the importation or transportation of military beer consigned to a military installation or to the importation of beer as authorized under Section 107.07 of this code.

Acts 1977, 65th Leg., p. 517, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 333, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 107.06. IMPORTATION OF MALT BEVERAGES. (a) A person may not import malt beverages into the state except the holder of a brewer's or general or branch distributor's license.

(b) A person may not transport malt beverages into this state unless the malt beverages are consigned and delivered to one of the licensees named in Subsection (a).

(c) This section does not apply to the importation or transportation of military malt beverages consigned to a military installation or to the importation of malt beverages as authorized under Section 107.07.

Acts 1977, 65th Leg., p. 517, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 333, eff. September 1, 2021.

Sec. 107.07. IMPORTATION FOR PERSONAL USE; IMPORTATION BY RAILROAD COMPANIES. (a) A person may import not more than 24 12-ounce bottles or an equivalent quantity of malt beverages, 3 gallons of wine, and 1 gallon of distilled spirits for the person's own personal use without being required to hold a permit. A person importing alcoholic beverages into the state under this subsection must pay the state tax on alcoholic beverages and an administrative fee of $3 and must affix the required tax stamps. No minor and no

intoxicated person may import any alcoholic beverages into the state. A person importing alcoholic beverages under this subsection must personally accompany the alcoholic beverages as the alcoholic beverages enter the state. A person may not use the exemptions set forth in this subsection more than once every thirty days.

(b) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 157, Sec. 3, eff. September 1, 2011.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 157, Sec. 3, eff. September 1, 2011.

Text of subsection effective until September 1, 2021

(d) A railroad company operating in this state may import beer owned by the company in quantities necessary to meet the needs of its passengers, but it may not sell or serve beer in a dry area.

Text of subsection effective on September 1, 2021

(d) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(a)(17), eff. September 1, 2021.

(e) The administrative fees collected under this section shall be used by the commission for the administrative costs of enforcing the requirements of Subsection (a).

(f) Except as provided by Chapter 54, any person in the business of selling alcoholic beverages in another state or country who ships or causes to be shipped any alcoholic beverage directly to any Texas resident under this section is in violation of this code.

(g) In computing the total amount of taxes and administrative fees to be collected on alcoholic beverages imported by a person into the state for personal use, the commission may round the amount up to the nearest quarter of a dollar.

Acts 1977, 65th Leg., p. 518, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 258, ch. 107, Sec. 14, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 2212, ch. 515, Sec. 2, eff. Aug. 31, 1981; Acts 1985, 69th Leg., ch. 285, Sec. 12, eff. Sept. 1, 1986; Acts 1985, 69th Leg., ch. 462, Sec. 13, eff. Sept. 1, 1986; Acts 1986, 69th Leg., 3rd C.S., ch. 9, Sec. 1, eff. Sept. 30, 1986; Acts 1987, 70th Leg., ch. 495, Sec. 2, eff. Aug. 31, 1987; Acts 1995, 74th Leg., ch. 135, Sec. 1, eff. Aug. 28, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 36 (S.B. 877), Sec. 3, eff. May 9, 2005.

Acts 2005, 79th Leg., Ch. 792 (S.B. 269), Sec. 1, eff. September

1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 157 (H.B. 1936), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 157 (H.B. 1936), Sec. 3, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(a)(17), eff. September 1, 2021.

Sec. 107.08. TRANSPORTATION OF BEVERAGES FOR PERSONAL CONSUMPTION. A person who purchases an alcoholic beverage for the person's own consumption may personally transport it from a place where its sale is legal to a place where its possession is legal without holding a license or permit.

Acts 1977, 65th Leg., p. 518, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 849 (H.B. 2791), Sec. 1, eff. September 1, 2019.

Text of section effective until September 1, 2021

Sec. 107.09. SINGLE INVOICE AUTHORIZED. If the holder of a general, local, or branch distributor's license also holds a wholesaler's, general class B wholesaler's, or local class B wholesaler's permit, a written statement or invoice required as evidence of the sale of beer or liquor may be on the same business form that is designed to reflect the sale of both liquor and beer, if all information required by this code to be shown on a statement or invoice is reflected on the form and all other records required by this code are maintained.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 83, eff. Sept. 1, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 334, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 107.09. SINGLE INVOICE AUTHORIZED. If the holder of a

general or branch distributor's license also holds a wholesaler's or general class B wholesaler's permit, a written statement or invoice required as evidence of the sale of malt beverages or liquor may be on the same business form that is designed to reflect the sale of both liquor and malt beverages, if all information required by this code to be shown on a statement or invoice is reflected on the form and all other records required by this code are maintained.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 83, eff. Sept. 1, 1993.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 334, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 107.10. TRANSPORTATION OF WINE COOLERS OR SPIRIT COOLERS. (a) A holder of a wholesaler's, general class B wholesaler's, or local class B wholesaler's permit may transport and sell wine coolers without a prior order if the holder complies with the provisions of this code and rules of the commission applicable to the transportation and sale of beer by a holder of a distributor's license.

(b) A holder of a wholesaler's permit may transport and sell spirit coolers without a prior order if the holder complies with the provisions of this code and rules of the commission applicable to the transportation and sale of beer by a holder of a distributor's license.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 83, eff. Sept. 1, 1993.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 335, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 107.10. TRANSPORTATION OF WINE COOLERS OR SPIRIT COOLERS. (a) A holder of a wholesaler's or general class B wholesaler's permit may transport and sell wine coolers without a prior order if the holder complies with the provisions of this code and rules of the commission applicable to the transportation and sale of malt

beverages by a holder of a distributor's license.

(b) A holder of a wholesaler's permit may transport and sell spirit coolers without a prior order if the holder complies with the provisions of this code and rules of the commission applicable to the transportation and sale of malt beverages by a holder of a distributor's license.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 83, eff. Sept. 1, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 335, eff. September 1, 2021.

Sec. 107.11. IMPORTATION OF PERSONAL COLLECTION. (a) A person who is relocating a household may import, or contract with a motor carrier or another person to import, a personal malt beverage, wine, or distilled spirit collection as a part of that person's household goods.

(b) Section 107.07 does not apply to a person who is importing a personal malt beverage, wine, or distilled spirit collection under Subsection (a).

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 83, eff. Sept. 1, 1993.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 157 (H.B. 1936), Sec. 2, eff. September 1, 2011.

CHAPTER 108. ADVERTISING

SUBCHAPTER A. GENERAL PROVISIONS RELATING TO ADVERTISING

Sec. 108.01. DECEPTIVE, DISPARAGING, OR OTHERWISE UNLAWFUL ADVERTISING.

Text of subsection effective until September 1, 2021

(a) No manufacturer or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may publish, disseminate, or cause to be published or disseminated by any medium enumerated in Subsection (b) an advertisement of a brewery product that:

(1) causes or is reasonably calculated to cause deception

of the consumer with respect to the product advertised;

(2) directly or by ambiguity, omission, or inference tends to create a misleading impression;

(3) is untrue in any particular;

(4) disparages a competitor's product; or

(5) is obscene or indecent.

Text of subsection effective on September 1, 2021

(a) A brewer or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may not publish, disseminate, or cause to be published or disseminated by any medium enumerated in Subsection (b) an advertisement of a brewery product that:

(1) causes or is reasonably calculated to cause deception of the consumer with respect to the product advertised;

(2) directly or by ambiguity, omission, or inference tends to create a misleading impression;

(3) is untrue in any particular;

(4) disparages a competitor's product; or

(5) is obscene or indecent.

(b) The media covered by this section include:

(1) radio broadcasting;

(2) newspapers, periodicals, and other publications;

(3) signs and outdoor advertising; and

(4) any printed or graphic matter.

Acts 1977, 65th Leg., p. 519, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. 1090), Sec. 19, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 336, eff. September 1, 2021.

Sec. 108.02. PROHIBITED FORMS OF ADVERTISING. No person may advertise an alcoholic beverage or the sale of an alcoholic beverage by the employment or use of a sound vehicle or handbill on a public street, alley, or highway.

Acts 1977, 65th Leg., p. 519, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 108.03. REGULATION OF PROMOTIONAL ACTIVITIES. The commission shall adopt rules permitting and regulating the use of business cards, menu cards, stationery, service vehicles and equipment, and delivery vehicles and equipment that bear alcoholic beverage advertising. The commission shall also adopt rules permitting and regulating the use of insignia advertising beer, distilled spirits, or wine by brand name on caps, regalia, or uniforms worn by employees of manufacturers, distributors, distillers, or wineries or by participants in a game, sport, athletic contest, or revue if the participants are sponsored by a manufacturer, distributor, distiller, or winery.

Acts 1977, 65th Leg., p. 519, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 84, eff. Sept. 1, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 337, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 108.03. REGULATION OF PROMOTIONAL ACTIVITIES. The commission shall adopt rules permitting and regulating the use of business cards, menu cards, stationery, service vehicles and equipment, and delivery vehicles and equipment that bear alcoholic beverage advertising. The commission shall also adopt rules permitting and regulating the use of insignia advertising malt beverages, distilled spirits, or wine by brand name on caps, regalia, or uniforms worn by employees of manufacturers, distributors, distillers, or wineries or by participants in a game, sport, athletic contest, or revue if the participants are sponsored by a manufacturer, distributor, distiller, or winery.

Acts 1977, 65th Leg., p. 519, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 84, eff. Sept. 1, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 337, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 108.035. PACKAGING OF CERTAIN PROMOTIONAL ITEMS AUTHORIZED. Notwithstanding any other provision of this code, a person who holds a brewer's permit, nonresident brewer's permit, manufacturer's license, or nonresident manufacturer's license, or the person's agent or employee, may package alcoholic beverages in combination with other items if the package is designed to be delivered intact to the wholesaler or distributor and the additional items are branded and have no value or benefit to the retailer other than that of having the potential of attracting purchases and promoting sales.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. 1090), Sec. 20, eff. September 1, 2013.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 338, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 108.035. PACKAGING OF CERTAIN PROMOTIONAL ITEMS AUTHORIZED. Notwithstanding any other provision of this code, a person who holds a brewer's license or nonresident brewer's license, or the person's agent or employee, may package alcoholic beverages in combination with other items if the package is designed to be delivered intact to the distributor and the additional items are branded and have no value or benefit to the retailer other than that of having the potential of attracting purchases and promoting sales.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. 1090), Sec. 20, eff. September 1, 2013.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 338, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 108.04. ACTS OF PROMOTIONAL OR COURTESY NATURE:

ADMINISTRATIVE DISCRETION. The commission may promulgate rules which shall set definite limitations consistent with the general provisions of this code, relaxing the restrictions of Sections 102.07, 102.14, 102.15, and 108.06, with respect to:

(1) the sale or gift of novelties advertising the product of a manufacturer or distributor;

(2) the making of gifts to civic, religious, or charitable organizations;

(3) the cleaning and maintenance of coil connections for dispensing draught beer;

(4) the lending of equipment for special occasions; and

(5) acts of a purely courtesy nature.

Acts 1977, 65th Leg., p. 519, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1999, 76th Leg., ch. 130, Sec. 1, eff. Sept. 1, 1999. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 339, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 108.04. ACTS OF PROMOTIONAL OR COURTESY NATURE: ADMINISTRATIVE DISCRETION. The commission may promulgate rules which shall set definite limitations consistent with the general provisions of this code, relaxing the restrictions of Sections 102.07, 102.14, 102.15, and 108.06, with respect to:

(1) the sale or gift of novelties advertising the product of a brewer or distributor;

(2) the making of gifts to civic, religious, or charitable organizations;

(3) the cleaning and maintenance of coil connections for dispensing draught malt beverages;

(4) the lending of equipment for special occasions; and

(5) acts of a purely courtesy nature.

Acts 1977, 65th Leg., p. 519, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1999, 76th Leg., ch. 130, Sec. 1, eff. Sept. 1, 1999. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 339, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 108.041. CARBON DIOXIDE FILTERS PROVIDED TO RETAILERS. (a) A manufacturer or distributor of beer may provide carbon dioxide filters to beer retailers for draught systems using carbon dioxide or a carbon dioxide and nitrogen blend, commonly referred to as "beer gas."

(b) The cost of providing, maintaining, and replacing the carbon dioxide filters shall be borne by the manufacturer.

Added by Acts 2005, 79th Leg., Ch. 237 (S.B. 1472), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 340, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 108.041. CARBON DIOXIDE FILTERS PROVIDED TO RETAILERS. (a) A brewer or distributor of malt beverages may provide carbon dioxide filters to malt beverage retailers for draught systems using carbon dioxide or a carbon dioxide and nitrogen blend, commonly referred to as "beer gas."

(b) The cost of providing, maintaining, and replacing the carbon dioxide filters shall be borne by the brewer.

Added by Acts 2005, 79th Leg., Ch. 237 (S.B. 1472), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 340, eff. September 1, 2021.

Sec. 108.042. ACTS OF PROMOTIONAL OR COURTESY NATURE: WINE DISPENSING. The commission shall adopt rules that set definite limitations, consistent with the general provisions of this code, relaxing the restrictions of Section 102.07 to allow the holder of a wholesaler's or general class B wholesaler's permit or the permit holder's agent to perform the cleaning and maintenance of coil

connections for the dispensing of wine.

Added by Acts 2011, 82nd Leg., R.S., Ch. 20 (S.B. 890), Sec. 1, eff. September 1, 2011.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 341, eff. September 1, 2019.

Text of section effective until September 1, 2021

Sec. 108.05. ALLOWANCE FOR ADVERTISEMENT OR DISTRIBUTION. No manufacturer or distributor, directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may pay or make an allowance to a retail dealer for an advertising or distribution service.

Acts 1977, 65th Leg., p. 520, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 342, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 108.05. ALLOWANCE FOR ADVERTISEMENT OR DISTRIBUTION. A brewer or distributor, directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may not pay or make an allowance to a retail dealer for an advertising or distribution service.

Acts 1977, 65th Leg., p. 520, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 342, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 108.06. PRIZES AND PREMIUMS. No manufacturer or distributor, directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may offer a prize, premium, gift, or other inducement to a dealer in or

consumer of brewery products.

Acts 1977, 65th Leg., p. 520, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 343, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 108.06. PRIZES AND PREMIUMS. A brewer or distributor, directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may not offer a prize, premium, gift, or other inducement to a dealer in or consumer of brewery products.

Acts 1977, 65th Leg., p. 520, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 343, eff. September 1, 2021.

Sec. 108.061. SWEEPSTAKES PROMOTIONS AUTHORIZED.

Text of subsection effective until September 1, 2021

(a) Notwithstanding the prohibition against prizes given to a consumer in Section 108.06 and subject to the rules of the commission, a manufacturer, nonresident manufacturer, or brewer may offer a prize to a consumer of legal drinking age if the offer is a part of a promotional sweepstakes activity.

Text of subsection effective on September 1, 2021

(a) Notwithstanding the prohibition against prizes given to a consumer in Section 108.06 and subject to the rules of the commission, a brewer or nonresident brewer may offer a prize to a consumer of legal drinking age if the offer is a part of a promotional sweepstakes activity.

(b) A purchase or entry fee may not be required of any person to enter in a sweepstakes authorized under this section.

(c) A person affiliated with the alcoholic beverage industry may not receive a prize from a sweepstakes authorized under this section.

(d) A prize awarded under this section may include food, beverages, entertainment, recreation, gifts, or attendance at a private event at a permitted or licensed premises for the winners of the sweepstakes and other guests of the sponsor of the event. The name or location of the premises where a private event described by this subsection is held may not be mentioned in any advertising related to the sweepstakes.

Text of subsection effective until September 1, 2021

(e) If a licensee or permittee conducts a private event authorized by Subsection (d) at a retailer's premises, the licensee or permittee shall pay the retailer the fair market value for the use of the premises. The retailer must retain control of the sale and service of alcoholic beverages at the private event.

Text of subsection effective on September 1, 2021

(e) If a licensee conducts a private event authorized by Subsection (d) at a retailer's premises, the licensee shall pay the retailer the fair market value for the use of the premises. The retailer must retain control of the sale and service of alcoholic beverages at the private event.

(f) A sweepstakes authorized under this section may be conducted at a permitted or licensed premises and the prize may be awarded to the winners at the permitted or licensed premises at which the sweepstakes is conducted.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 85, eff. Sept. 1, 1993.
Amended by:

Acts 2005, 79th Leg., Ch. 236 (S.B. 1471), Sec. 2, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 876 (H.B. 3003), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 344, eff. September 1, 2021.

Sec. 108.07. ADVERTISING OF MIXED BEVERAGE ESTABLISHMENTS. The provisions of this code applicable to outdoor advertising and to advertising in or on the premises do not apply to establishments for which a mixed beverage permit has been issued. The commission or administrator shall promulgate reasonable rules relating to that type of advertising, and violation of any of those rules is a violation of

this code.

Acts 1977, 65th Leg., p. 520, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 108.08. ADVERTISING IN CERTAIN ECONOMIC DEVELOPMENT FACILITIES. (a) Notwithstanding any other provision of this code or any rule adopted under the authority of this code, the provisions of this code relating to the regulation of or limitations on outdoor advertising signage, advertising revenue, or advertising signage in or on a licensed premises do not apply to an entity which owns a professional sports franchise which plays a majority of its home games in a municipally owned or leased regional economic development facility that is in a station or terminal complex of a rapid transit authority and to which Subchapter E, Chapter 451, Transportation Code, applies or to such a facility.

(b) A part of the cost of advertising revenue paid by a manufacturer to an entity under this section may not be charged to or paid, directly or indirectly, by the holder of a wholesaler's permit, general class B wholesaler's permit, local distributor's permit, or general distributor's license, except through the price paid by that holder for products purchased from the holders' supplier.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 86, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.175, eff. Sept. 1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 345, eff. September 1, 2019.

Sec. 108.09. ADVERTISING WHERE PRODUCT MAY BE PURCHASED. (a) Notwithstanding any other provision of this code, a member of the manufacturing or wholesale tier may include information in its advertising that informs the public of where its products may be purchased.

(b) A member of the manufacturing tier may not give compensation to or receive compensation from a licensed or permitted member of the wholesale or retail tier for advertising described by Subsection (a). A member of the wholesale tier may not give compensation to or receive compensation from a licensed or permitted

member of the manufacturing or retail tier for advertising described by Subsection (a).

Added by Acts 2005, 79th Leg., Ch. 878 (S.B. 1137), Sec. 6, eff. June 17, 2005.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. 1090), Sec. 21, eff. September 1, 2013.

Text of section effective until September 1, 2021

Sec. 108.10. BRANDED PROMOTIONAL VEHICLES. Notwithstanding any other provision of this code, the holder of a manufacturer's or nonresident manufacturer's license or a nonresident seller's permit may display a branded promotional vehicle on the licensed or permitted premises of a retailer, whether outside or inside a structure on the premises, for not more than five hours per day.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. 1090), Sec. 22, eff. September 1, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 346, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 108.10. BRANDED PROMOTIONAL VEHICLES. Notwithstanding any other provision of this code, the holder of a brewer's or nonresident brewer's license or a nonresident seller's permit may display a branded promotional vehicle on the licensed or permitted premises of a retailer, whether outside or inside a structure on the premises, for not more than five hours per day.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. 1090), Sec. 22, eff. September 1, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 346, eff. September 1, 2021.

SUBCHAPTER B. OUTDOOR ADVERTISING

Sec. 108.51. DEFINITIONS. In this subchapter:

(1) "Outdoor advertising" means any sign bearing a word, mark, description, or other device that is used to advertise an alcoholic beverage or the business of a person who manufactures, sells, or distributes an alcoholic beverage if the sign is displayed outside the walls or enclosure of a building or structure where a license or permit is issued or if it is displayed inside a building but within five feet of an exterior wall facing a street or highway so that it is visible by a person of ordinary vision from outside the building. "Outdoor advertising" does not include advertising appearing on radio or television, in a public vehicular conveyance for hire, on a race car while participating at a professional racing event or at a permanent motorized racetrack facility, on a boat participating in a racing event or a boat show, on an aircraft, on a bicycle or on the clothing of a member of a bicycle team participating in an organized bicycle race, or in a newspaper, magazine, or other literary publication published periodically. For the purpose of this definition the word "sign," with respect to a retailer, does not include an identifying label affixed to a container as authorized by law or to a card or certificate of membership in an association or organization if the card or certificate is not larger than 80 square inches.

(2) "Billboard" means a structure directly attached to the land, a house, or a building having one or more spaces used to display a sign or advertisement of an alcoholic beverage or a person engaged in the manufacture, sale, or distribution of alcoholic beverages, whether or not the structure is artificially lighted. "Billboard" does not include a bench or a wall or other part of a structure used as a building, fence, screen, front, or barrier.

(3) "Electric sign" means a structure or device other than an illuminated billboard by which artificial light produced by electricity is used to advertise the alcoholic beverage business by a person who manufactures, sells, or distributes alcoholic beverages or to advertise an alcoholic beverage.

Acts 1977, 65th Leg., p. 520, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 500, ch. 231, Sec. 1, eff. Aug. 27, 1979; Acts 1985, 69th Leg., ch. 51, Sec. 1, eff. Aug. 26, 1985; Acts 1987, 70th Leg., ch. 268, Sec. 1, eff. June 5, 1987; Acts 1993,

73rd Leg., ch. 934, Sec. 87, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1310, Sec. 1, eff. June 20, 1997.

Sec. 108.52. PERMISSIBLE OUTDOOR ADVERTISING. (a) No outdoor advertising is permitted in this state except that which is authorized by this section or under rules of the commission or administrator promulgated pursuant to Section 108.03 of this code.

(b) Billboards and electric signs are permitted if they are not located in a manner contrary to this code.

(c) The commission shall adopt reasonable rules relating to the type of outdoor advertising retail licensees and permittees may erect or maintain on the retailer's premises. A violation of a rule adopted under this section is a violation of this code.

(d) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 415(b)(20), eff. September 1, 2019.

(e) Billboards, electric signs, or other signs to designate the firm name or business of a permittee or licensee authorized to manufacture, rectify, bottle, or wholesale alcoholic beverages may be displayed at the licensee's or permittee's place of business.

(f) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 415(b)(20), eff. September 1, 2019.

(g) Outdoor advertising of an alcoholic beverage or of the business of any person engaged in the manufacture, sale, or distribution of an alcoholic beverage is permitted to be placed on or affixed to a bench unless:

(1) the advertising is prohibited by an ordinance of an incorporated city or town; or

(2) the advertising is in an area or zone where the sale of alcoholic beverages is prohibited by law.

(h) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 415(b)(20), eff. September 1, 2019.

(i) Except as provided by Subsection (j), outdoor advertising of an alcoholic beverage or of the business of any person engaged in the manufacture, sale, or distribution of an alcoholic beverage may be placed on or affixed to the outside of a public transportation passenger vehicle or vehicle for hire. In this subsection:

(1) "Public transportation passenger vehicle" means a vehicle operated by a political subdivision and used for the transportation of passengers for a fee.

(2) "Vehicle for hire" includes a van, taxi, limousine, pedicab, and rickshaw and any other means of transportation available to the public for a fee.

(j) An incorporated city or town may, by ordinance, prohibit outdoor advertising described by Subsection (i) on or affixed to a vehicle for hire.

Acts 1977, 65th Leg., p. 521, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 501, ch. 231, Sec. 2, eff. Aug. 27, 1979; Acts 1997, 75th Leg., ch. 62, Sec. 1, eff. Sept. 1, 1997. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 327 (H.B. 1917), Sec. 1, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 347, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 415(b)(20), eff. September 1, 2019.

Sec. 108.53. ADVERTISING SIGNS. Consistent with other provisions of this code, the commission shall promulgate rules allowing for signs advertising alcoholic beverages at charitable or civic events such as fairs, rodeos, or other events of a temporary nature. This section does not authorize, nor shall any rule of the commission authorize, a retailer of alcoholic beverages to derive, directly or indirectly, any money or consideration of any kind as a result of alcoholic beverage advertising, and the commission's rules shall reflect the intent that the charity or civic endeavor receive the proceeds, if any, from such advertising signs.

Acts 1977, 65th Leg., p. 521, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1997, 75th Leg., ch. 62, Sec. 2, eff. Sept. 1, 1997. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 348, eff. September 1, 2019.

Sec. 108.54. NONCONFORMING OUTDOOR ADVERTISING: SEIZURE, REMOVAL. (a) No person may erect, maintain, or display any outdoor advertising, billboard, or electric sign which does not conform in all respects to the provisions of this code. A billboard or electric

sign that does not conform is illegal equipment which is subject to seizure and forfeiture as provided in this code.

(b) The owner of any outdoor advertising that does not conform to the provisions of this code is responsible for removing it from public view immediately, and the failure to do so is a violation of this code.

Acts 1977, 65th Leg., p. 522, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 108.55. LOCAL REGULATION OF BILLBOARDS, ELECTRIC SIGNS. No person may erect or maintain a billboard, electric sign, or any outdoor advertising in violation of an ordinance of an incorporated city or town.

Acts 1977, 65th Leg., p. 522, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5415, ch. 1005, Sec. 1, eff. Sept. 1, 1983.

Sec. 108.56. DRY AREAS. (a) Except as provided by Subsection (b), no person may erect or maintain a billboard or electric sign in an area or zone where the sale of alcoholic beverages is prohibited by law.

(b) A person may erect or maintain a billboard in an area or zone where the sale of alcoholic beverages is prohibited by law if:

(1) the premises that the billboard advertises is located in a county with a population of 250,000 or less; and

(2) the billboard is within 1,500 feet of the premises that the billboard advertises; and

(3) a United States highway that merges into and becomes an interstate highway separates the premises and the billboard; or

(4) the billboard is located adjacent to a wet precinct separated by a United States highway that merges into and becomes an interstate highway in a county with a population of 250,000 or less and advertises directions to a winery located in the adjacent wet precinct.

Acts 1977, 65th Leg., p. 522, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1997, 75th Leg., ch. 1264, Sec. 1, eff. June 20, 1997.

SUBCHAPTER C. INDUSTRY PUBLIC ENTERTAINMENT FACILITIES ACT

Sec. 108.71. PURPOSE. This subchapter governs the statutory duties, rights, and relations among licensees and permittees operating under this subchapter, including their relations with the owners and operators of public entertainment facilities. This subchapter expressly authorizes alcoholic beverage distillers, manufacturers, distributors, and wholesalers, except as provided by Section 108.74, to promote and sponsor events and advertise alcoholic beverage brands and products at public entertainment facilities without establishing unlawful intertier relations, including with retail permittees operating at those facilities.

Added by Acts 2003, 78th Leg., ch. 946, Sec. 1, eff. Sept. 1, 2003.

Sec. 108.72. SHORT TITLE. This subchapter may be cited as the Industry Public Entertainment Facilities Act.

Added by Acts 2003, 78th Leg., ch. 946, Sec. 1, eff. Sept. 1, 2003.

Sec. 108.73. DEFINITIONS. In this subchapter:

Text of subdivision effective until September 1, 2021

(1) "Independent concessionaire" means a licensed or permitted member of the retail tier or a holder of a private club permit, caterer's permit, or food and beverage certificate who:

(A) has a written concession agreement from the owner, operator, or lessee of a public entertainment facility;

(B) receives no monetary benefit, directly or indirectly, by any scheme or device or in any form or degree from the alcoholic beverage industry including a benefit in the form of capital improvements, furniture, fixtures, or equipment, unless otherwise authorized by this code or commission rules; and

(C) is not owned, in whole or in part, by the public entertainment facility, or a subsidiary, agent, manager, or company managing the facility, and who does not own, in whole or in part, or manage the public entertainment facility.

Text of subdivision effective on September 1, 2021

(1) "Independent concessionaire" means a licensed or permitted member of the retail tier or a holder of a private club registration permit, mixed beverage permit, or food and beverage certificate who:

(A) has a written concession agreement from the owner, operator, or lessee of a public entertainment facility;

(B) receives no monetary benefit, directly or indirectly, by any scheme or device or in any form or degree from the alcoholic beverage industry including a benefit in the form of capital improvements, furniture, fixtures, or equipment, unless otherwise authorized by this code or commission rules; and

(C) is not owned, in whole or in part, by the public entertainment facility, or a subsidiary, agent, manager, or company managing the facility, and who does not own, in whole or in part, or manage the public entertainment facility.

(2) "Public entertainment facility" means an arena, stadium, automobile race track, amphitheater, auditorium, theater, civic center, convention center, or similar facility that is primarily designed and used for live artistic, theatrical, cultural, educational, charitable, musical, sporting, nationally sanctioned automobile racing, or entertainment events and includes parking areas that are adjacent to the facility. The term includes a facility that is owned or leased by the Texas State Railroad Authority and used as a station for passenger rail services. The term also includes a facility that is part of an approved venue project, including the venue and related infrastructure, as those terms are defined by Section 334.001, Local Government Code. The term does not include a facility the primary purpose of which is the sale of food or alcoholic beverages, including a bar, nightclub, restaurant, hotel, bowling alley, pool hall, or dance hall, or a facility that derives 75 percent or more of the facility's annual gross revenue from the on-premise sale of alcoholic beverages, except for a facility that is part of an approved venue project, including the venue and related infrastructure, as those terms are defined by Section 334.001, Local Government Code.

(3) "Public entertainment facility property" means property on which a public entertainment facility and a licensed or permitted premises are located and related surrounding property.

(4) "Sponsorship signs" means any manner of advertising, promotional, or sponsorship signage, or any representation, device,

display, regalia, insignia, indicia, design, slogan, trade name, brand name, product name, permittee or licensee name, advertising specialties, marketing services, or other materials indicating participation in or sponsorship of all or part of a public entertainment facility or an event or venue at a public entertainment facility, including the sponsorship or naming of all or part of the facility or event, wherever located, whether indoor or outdoor, including billboards, awnings, and electric signs, however manufactured, comprising whatever materials, and however disseminated, including by writing, printing, graphics, newspaper, periodicals, radio, television, cable, Internet, electronic, satellite, and other media or communication modalities.

Added by Acts 2003, 78th Leg., ch. 946, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 433 (S.B. 1519), Sec. 1, eff. June 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 230 (H.B. 2196), Sec. 2, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 697 (S.B. 2410), Sec. 1, eff. June 10, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 349, eff. September 1, 2021.

Sec. 108.74. EXCEPTION OF CERTAIN WHOLESALER FROM APPLICATION OF THIS SUBCHAPTER. A person who holds a permit under Chapter 19 and whose revenues from the sale of alcoholic beverages are predominately obtained from the sale of distilled spirits and wine may not enter into advertising, sponsorship, or promotional agreements as authorized by Section 108.75.

Added by Acts 2003, 78th Leg., ch. 946, Sec. 1, eff. Sept. 1, 2003.

Sec. 108.75. ADVERTISING AND PROMOTION IN PUBLIC ENTERTAINMENT FACILITY. (a) A member of the distiller, manufacturing, distributor, or wholesaler tier may promote, sponsor, or advertise an entertainment event or venue or promote or advertise an alcoholic beverage brand or product at a public entertainment facility if the alcoholic beverage promoted, sold, or served at the event, venue, or

facility is furnished by an independent concessionaire.

(b) An independent concessionaire may not receive direct monetary benefit from advertising, promotional, or sponsorship revenues generated by operation of a public entertainment facility. A member of the manufacturing or distributing tier may not, directly or indirectly through the owner or operator of a public entertainment facility, furnish, give, rent, lend, or sell any equipment, fixtures, or supplies to an independent concessionaire. A public entertainment facility owner or operator or a member of the distiller, manufacturing, distributor, or wholesaler tier may not directly or indirectly control the quantity or brand of alcoholic beverages bought or sold by an independent concessionaire. An independent concessionaire must enter into a written concession agreement with an owner, lessee, or operator of a public entertainment facility.

(c) A member of the distiller, manufacturing, distributor, or wholesaler tier who has entered into an advertising, promotional, or sponsorship agreement may provide sponsorship signs at a public entertainment facility property and as otherwise authorized in this code and commission rules.

(d) An independent concessionaire who has entered into a concessionaire agreement under this subchapter may place sponsorship signs at, in, or on public entertainment facility property.

(e) The owner or operator of a public entertainment facility who has entered into a concessionaire agreement and a sponsorship agreement under this subchapter shall not be precluded from placing and displaying sponsorship signs, as otherwise permitted by law, provided by sponsoring members of the distiller, manufacturing, distributor, or wholesaler tier, at, in, or on an independent concessionaire's venues at a public entertainment facility property, including the area where alcoholic beverages are displayed, served, or poured.

(f) Nothing in this subchapter shall limit the independent concessionaire's right to place and display sponsorship and other signs authorized under this code and commission rules.

(g) All advertising, promotional, sponsorship, and concession agreements authorized by this subchapter shall contain an affirmative provision disavowing the right of any party to engage in conduct prohibited by this subchapter.

Added by Acts 2003, 78th Leg., ch. 946, Sec. 1, eff. Sept. 1, 2003.

Sec. 108.755. CERTAIN GOVERNMENTALLY OWNED FACILITIES. (a) Section 108.75 does not restrict or govern the promotion, sponsorship, or advertising of an entertainment event, or the promotion or advertising of an alcoholic beverage brand or product, at a facility that is:

(1) owned by a municipality or county that is financed with public securities, the interest on which is exempt from federal income taxation under the Internal Revenue Code of 1986; or

(2) part of an approved venue project, including the venue and related infrastructure, as those terms are defined by Section 334.001, Local Government Code.

(b) Financial arrangements, including profit sharing, between a concessionaire operating at a facility described by Subsection (a) and a person operating the concession facilities under a contract with the license or permit holder or the municipality or county do not constitute and are not evidence of subterfuge ownership prohibited by Section 109.53.

Added by Acts 2009, 81st Leg., R.S., Ch. 176 (H.B. 1505), Sec. 1, eff. September 1, 2009.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 433 (S.B. 1519), Sec. 2, eff. June 1, 2017.

Sec. 108.76. VIOLATION. The provision, placement, and use of sponsorship signs as authorized by and in compliance with this subchapter by members of the distiller, manufacturing, distributor, or wholesaler tier, independent concessionaires, and public entertainment facility owners and operators does not constitute an illegal inducement, subterfuge, or a surrender of exclusive control.

Added by Acts 2003, 78th Leg., ch. 946, Sec. 1, eff. Sept. 1, 2003.

Sec. 108.77. COST OF ADVERTISEMENT, SPONSORSHIP, OR PROMOTION. No part of the cost of an advertisement, sponsorship, or promotion authorized by this subchapter may be charged to or paid by a distributor or wholesaler, except as provided by Section 108.74,

unless the distributor or wholesaler:

(1) contracts directly with the owner or operator of the public entertainment facility for the advertisement, sponsorship, or promotion; or

(2) is a party to the advertising, sponsorship, or promotion agreement between a member of the manufacturing tier and the owner or operator of the public entertainment facility.

Added by Acts 2003, 78th Leg., ch. 946, Sec. 1, eff. Sept. 1, 2003.

Sec. 108.78. CONFIDENTIALITY. Any concessionaire, sponsorship, advertisement, or promotional agreement, or related agreement and exhibits to such an agreement, entered into, submitted, filed, or requested by the administrator or commission is deemed confidential under Section 5.48(b).

Added by Acts 2003, 78th Leg., ch. 946, Sec. 1, eff. Sept. 1, 2003.

Sec. 108.79. OPTIONAL PREAPPROVAL PROCESS. (a) Subject to the terms of the relevant agreement, a permittee or licensee may by certified mail, return receipt requested, submit to the administrator in writing the permittee's or licensee's original or amended advertising, promotional, sponsorship, or concessionaire agreement relating to a public entertainment facility, requesting the administrator's approval.

(b) Not later than the 30th day after the date the administrator receives the request for preapproval under this section, the administrator shall notify the permittee or licensee in writing, by certified mail, return receipt requested, whether the administrator approves, conditionally approves, or disapproves the submission. If the administrator does not provide the notification in that time and the permittee or licensee does not agree to a timely and reasonable written request for an extension by the administrator giving the reason for the request, the agreement is considered approved as submitted.

(c) If the administrator conditionally approves or disapproves a submission under Subsection (b), the administrator shall specify in the notice provided under that subsection the basis for the administrator's determination, referencing any specific provisions of

this code or other law involved in the determination and any necessary and reasonable actions the permittee or licensee may take to obtain approval of the submission.

(d) On receipt of the administrator's conditional approval or disapproval, the permittee or licensee may:

(1) revise and resubmit the agreement in compliance with the administrator's specific comments and instructions, including any discussions between the administrator and permittee or licensee to resolve the issues involved in the administrator's determination; or

(2) contest the commission's or administrator's determinations, acts, or omissions related to this subchapter and engage in informal mediation to resolve the dispute regarding the submission.

(e) A submission under Subsection (d)(1) is subject to the approval period prescribed by Subsection (b) unless the administrator and the permittee or licensee agree otherwise.

Added by Acts 2003, 78th Leg., ch. 946, Sec. 1, eff. Sept. 1, 2003.

Sec. 108.80. JUDICIAL REVIEW. (a) If a permittee, licensee, or other party to an agreement under this subchapter alleges that the administrator is or has been, directly or indirectly, unfairly, arbitrarily, capriciously, or wrongly exercising or withholding the exercise of the administrator's authority under Section 108.79, desires a declaration of rights under this subchapter, or alleges threatened or actual damage or injury arising out of a violation of this subchapter or any other law relating to the process and rights provided by this subchapter, the aggrieved party may bring suit in a district court in Travis County:

(1) to require, contest, or suspend enforcement of any act or omission by the administrator or commission; or

(2) concerning any administrative, regulatory, legal, or judicial act or omission, including seeking mandatory and prohibitory injunctive and extraordinary relief or declaratory relief.

(b) The court in its discretion may allow the permittee, licensee, or other party to an agreement to recover court costs and reasonable attorney's fees incurred in the defense or prosecution of the action.

Added by Acts 2003, 78th Leg., ch. 946, Sec. 1, eff. Sept. 1, 2003.

Sec. 108.81. SPONSOR LIABILITY. A beverage distiller, manufacturer, distributor, or wholesaler who sponsors an event at a public entertainment facility or on public entertainment facility property, or who advertises or displays sponsorship signs in connection with such an event or facility or property, shall not be liable solely because of such sponsorship, advertisement, or display of sponsorship signs for any personal injury, death, or property damage occurring at such a facility or property or as a result of the operation or condition of such facility or property or because of any tort committed by any other party at or in connection with such event, facility, or property.

Added by Acts 2003, 78th Leg., ch. 946, Sec. 1, eff. Sept. 1, 2003.

Sec. 108.82. ALCOHOLIC BEVERAGE CONSUMPTION IN PUBLIC ENTERTAINMENT FACILITIES. (a) This section applies only to a public entertainment facility:

(1) that is owned or leased by the Texas State Railroad Authority and used as a station for passenger rail services; or

(2) that is a stadium, arena, or other permanent structure that is used for sporting events and:

(A) relating to which an agreement approved by the administrator under Section 108.79 is in force; and

(B) for which all alcoholic beverage permits and licenses are held by a single holder.

(b) Notwithstanding Section 28.10, the concessionaire for a public entertainment facility described by Subsection (a) may allow a patron who possesses an alcoholic beverage to enter or leave a licensed or permitted premises within the facility if the alcoholic beverage:

(1) is in an open container, as defined by Section 49.031, Penal Code;

(2) appears to be possessed for present consumption;

(3) except as provided by Section 48.01(b), remains within the confines of the facility, excluding a parking lot; and

(4) was purchased legally at a licensed or permitted premises within the facility.

(c) A license or permit may be issued for a premises located in a facility described by Subsection (a)(1) in an area in which the sale of alcoholic beverages has not been authorized by a local option election if the area has been annexed by a municipality in which the sale of alcoholic beverages has been authorized by a local option election. A facility described by this subsection has the same local option status as the municipality.

(d) For a facility described by Subsection (a)(1), a concessionaire under Subsection (b) may include a licensee or permittee of the manufacturing tier.

Added by Acts 2013, 83rd Leg., R.S., Ch. 54 (H.B. 893), Sec. 1, eff. May 18, 2013.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 409 (H.B. 2339), Sec. 1, eff. June 10, 2015.

Acts 2019, 86th Leg., R.S., Ch. 230 (H.B. 2196), Sec. 3, eff. September 1, 2019.

CHAPTER 109. MISCELLANEOUS REGULATORY PROVISIONS

SUBCHAPTER A. SALVAGED AND INSURED LOSSES; UNINSURED LOSSES

Sec. 109.01. SALE OF SALVAGED OR INSURED LOSS. If a person who does not hold a permit or license to sell alcoholic beverages acquires possession of alcoholic beverages as an insurer or insurance salvor in the salvage or liquidation of an insured damage or loss sustained in this state by a qualified licensee or permittee, he may sell the beverages in one lot or parcel as provided in this subchapter without being required to obtain a license or permit.

Acts 1977, 65th Leg., p. 523, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 109.02. REGISTRATION OF BEVERAGES WITH COMMISSION. Immediately after taking possession of the alcoholic beverages, the insurer or insurance salvor shall register them with the commission, furnishing the commission a detailed inventory and the exact location of the beverages. At the time of registration, the registrant shall post with the commission a surety bond in an amount that the administrator finds adequate to protect the state against the taxes due on the beverages, if any are due. The registrant shall remit

with the registration a fee of $10. The fee only permits the sale of the beverages listed in the registration.

Acts 1977, 65th Leg., p. 523, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 109.03. PREREQUISITE TO SALABILITY. An alcoholic beverage is salable under this subchapter only if it has not been adulterated, it is fit for human consumption, all tax stamps required by law have been affixed, and the labels are legible as to contents, brand, and manufacturer.

Acts 1977, 65th Leg., p. 523, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 109.04. SALE OF BEER: PROCEDURE. (a) When the commission is notified under this subchapter of the acquisition of beer or its containers or original packages, it shall immediately notify a holder of a general, local, or branch distributor's license who handles the brand of beer and who operates in the county where it is located or, if it is located in a dry area or if no distributor operates in the county, the nearest distributor handling the brand or the manufacturer who brewed it.

(b) The insurer or insurance salvor, the commission, and the distributor or manufacturer shall jointly agree whether the beer is salable. If it is determined to be unsalable, the commission shall destroy it. If it is determined to be salable, the manufacturer or distributor shall be given the opportunity to purchase it. A distributor may purchase beer at the cost price less any state taxes that have been paid, F.O.B. its place of business. A manufacturer may purchase beer at the cost price to the nearest distributor of the brand, less any state taxes that have been paid, F.O.B. that distributor's place of business. A manufacturer or distributor may purchase returnable bottles, containers, or packages at their deposit price.

(c) If the distributor or manufacturer does not exercise the right to purchase the merchandise within 10 days after being given the opportunity to purchase it, the insurer or insurance salvor may sell it to any qualified licensee or permittee as provided in Section

109.01 of this code.

Acts 1977, 65th Leg., p. 523, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 350, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 109.04. SALE OF MALT BEVERAGES: PROCEDURE. (a) When the commission is notified under this subchapter of the acquisition of malt beverages or malt beverage containers or original packages, it shall immediately notify a holder of a general or branch distributor's license who handles the brand of malt beverages and who operates in the county where the malt beverages are located or, if the malt beverages are located in a dry area or if no distributor operates in the county, the nearest distributor handling the brand or the brewer who brewed the malt beverages.

(b) The insurer or insurance salvor, the commission, and the distributor or brewer shall jointly agree whether the malt beverages are salable. If the malt beverages are determined to be unsalable, the commission shall destroy the malt beverages. If the malt beverages are determined to be salable, the brewer or distributor shall be given the opportunity to purchase the malt beverages. A distributor may purchase malt beverages at the cost price less any state taxes that have been paid, F.O.B. its place of business. A brewer may purchase malt beverages at the cost price to the nearest distributor of the brand, less any state taxes that have been paid, F.O.B. that distributor's place of business. A brewer or distributor may purchase returnable bottles, containers, or packages at their deposit price.

(c) If the distributor or brewer does not exercise the right to purchase the merchandise within 10 days after being given the opportunity to purchase it, the insurer or insurance salvor may sell it to any qualified licensee or permittee as provided in Section 109.01.

Acts 1977, 65th Leg., p. 523, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 350, eff.

September 1, 2021.

Sec. 109.05. SALE OF LIQUOR: PROCEDURE. (a) When the commission is notified under this subchapter of the acquisition of liquor or its containers or original packages, it shall immediately notify the holder or holders of wholesaler's or class B wholesaler's permits who handle and regularly sell the brand or brands of liquor involved and who operate in the area where the liquor is located, or who operate in the nearest wet area if the liquor is in a dry area. The commission shall also notify the nonresident seller's permittees who handle the brand or brands of liquor involved, or the nonresident seller's agents who represent those nonresident seller's permittees.

(b) The commission, the permittees who are notified, and the insurer or insurance salvor shall jointly determine whether the liquor is salable. If the liquor is determined to be unsalable, the commission shall destroy it. If it is determined to be salable, it shall first be offered for sale to the wholesaler and nonresident seller of the brand or brands at their cost price, less any state taxes that have been paid on the liquor.

(c) If the wholesaler does not exercise the right to purchase the liquor, container, or packages within 10 days after it is offered, the commission shall sell it at a public or private sale.

Acts 1977, 65th Leg., p. 524, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 351, eff. September 1, 2019.

Sec. 109.06. PURCHASER'S RIGHT TO USE BEVERAGES. A permittee or licensee who purchases alcoholic beverages under this subchapter may treat them as other alcoholic beverages acquired by him as provided in this code.

Acts 1977, 65th Leg., p. 524, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 109.07. SALVOR MAY REJECT BID. A salvor may reject a bid made on only a part of a whole salvage.

Acts 1977, 65th Leg., p. 524, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 109.08. EXCLUSION. Notwithstanding any other provision of this code, no person engaged in business as a distiller, brewer, manufacturer, winery, or any other manufacturing level producer of liquor or beer, or their wholesalers, may directly or indirectly or through an affiliate require, by agreement or otherwise, that any retailer engaged in the sale of liquor or beer purchase any such products from such person to the exclusion in whole or in part of liquor or beer sold or offered for sale by other persons, or prevent, deter, hinder, or restrict other persons from selling or offering for sale any such products to any retailer.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 88, eff. Sept. 1, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 352, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 109.08. EXCLUSION. Notwithstanding any other provision of this code, a person engaged in business as a distiller, brewer, winery, or any other manufacturing level producer of liquor or malt beverages, or their wholesalers or distributors, may not directly or indirectly or through an affiliate require, by agreement or otherwise, that any retailer engaged in the sale of liquor or malt beverages purchase any such products from such person to the exclusion in whole or in part of liquor or malt beverages sold or offered for sale by other persons, or prevent, deter, hinder, or restrict other persons from selling or offering for sale any such products to any retailer.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 88, eff. Sept. 1, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 352, eff. September 1, 2021.

Sec. 109.09. REMOVAL, DESTRUCTION, AND DISPOSAL OF UNINSURED BEVERAGES UNFIT FOR CONSUMPTION. (a) Uninsured ale, malt liquor, or beer that becomes unfit for public consumption, as described by Section 103.07(b), may be removed from the inventory of a retailer and destroyed and disposed of if the holder of the brewer's permit or manufacturer's license who manufactured the beverage and the wholesaler or distributor who distributed the beverage jointly determine that the beverage:

(1) became unfit for public consumption as the result of a natural disaster in an area declared to be a disaster under Section 418.014, Government Code; and

(2) should be removed from the inventory of the retailer.

(b) A brewer or manufacturer and a wholesaler or distributor who jointly agree to the removal of a beverage under Subsection (a) shall jointly provide for the delivery and replacement of the removed beverage at no cost to the retailer from whose inventory the beverage is removed. The brewer or manufacturer who manufactured the removed beverage is responsible for the cost of a replacement beverage provided under this section. The wholesaler or distributor who distributed the removed beverage is responsible for the cost of delivering a replacement beverage provided under this section.

(c) A retailer from whose inventory a beverage is removed under this section is responsible for the costs associated with the removal, destruction, and disposal of the removed beverage.

(d) The commission by rule shall provide requirements governing the removal, destruction, and disposal by a retailer of uninsured ale, malt liquor, or beer that is determined to be unfit for public consumption under this section. Rules adopted under this subsection must include provisions requiring verification by a retailer from whose inventory a beverage is removed that the beverage has been removed, destroyed, and disposed of in the manner required by the commission.

Added by Acts 2019, 86th Leg., R.S., Ch. 982 (S.B. 1210), Sec. 2, eff. September 1, 2019.

SUBCHAPTER B. HOME PRODUCTION OF WINE, ALE, MALT LIQUOR, OR BEER

Text of section effective until September 1, 2021

Sec. 109.21. HOME PRODUCTION OF WINE, ALE, MALT LIQUOR, OR

BEER. (a) The head of a family or an unmarried adult may produce for the use of his family or himself not more than 200 gallons of wine, ale, malt liquor, or beer, per year. No license or permit is required.

(b) The commission may prohibit the use of any ingredient it finds detrimental to health or susceptible of use to evade this code. Only wine made from the normal alcoholic fermentation of the juices of dandelions or grapes, raisins, or other fruits may be produced under this section. Only ale, malt liquor, or beer made from the normal alcoholic fermentation of malted barley with hops, or their products, and with or without other malted or unmalted cereals, may be produced under this section. The possession of wine, ale, malt liquor, or beer produced under this section is not an offense if the person making it complies with all provisions of this section and the wine, ale, malt liquor, or beer is not distilled, fortified, or otherwise altered to increase its alcohol content.

(c) There is no annual state fee for beverages produced in compliance with this section.

Acts 1977, 65th Leg., p. 524, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 863, ch. 387, Sec. 1, eff. Aug. 27, 1979; Acts 1983, 68th Leg., p. 1351, ch. 278, Sec. 50, eff. Sept. 1, 1983; Acts 1989, 71st Leg., ch. 310, Sec. 1, eff. June 14, 1989.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 353, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 109.21. HOME PRODUCTION OF WINE OR MALT BEVERAGES. (a) The head of a family or an unmarried adult may produce for the person's use or the use of the person's family not more than 200 gallons of wine or malt beverages per year. No license or permit is required.

(b) The commission may prohibit the use of any ingredient it finds detrimental to health or susceptible of use to evade this code. Only wine made from the normal alcoholic fermentation of the juices of dandelions or grapes, raisins, or other fruits may be produced under this section. Only malt beverages made from the normal

alcoholic fermentation of malted barley with hops, or their products, and with or without other malted or unmalted cereals, may be produced under this section. The possession of wine or malt beverages produced under this section is not an offense if the person making it complies with all provisions of this section and the wine or malt beverages are not distilled, fortified, or otherwise altered to increase their alcohol content.

(c) There is no annual state fee for beverages produced in compliance with this section.

Acts 1977, 65th Leg., p. 524, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 863, ch. 387, Sec. 1, eff. Aug. 27, 1979; Acts 1983, 68th Leg., p. 1351, ch. 278, Sec. 50, eff. Sept. 1, 1983; Acts 1989, 71st Leg., ch. 310, Sec. 1, eff. June 14, 1989.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 353, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 109.22. DELIVERY OF HOME-PRODUCED WINE, ALE, MALT LIQUOR, OR BEER FOR CERTAIN PURPOSES. (a) This section applies only to a person who is authorized under Section 109.21(a) to produce wine, ale, malt liquor, or beer.

(b) For the purpose of participating in an organized tasting, evaluation, competition, or literary review, a person to whom this section applies may deliver wine, ale, malt liquor, or beer produced and manufactured by the person to locations that are not licensed under this code for the purpose of submitting those products to an evaluation at an organized tasting competition that is closed to the general public or by a reviewer whose reviews are published if:

(1) no charge of any kind is made for the wine, ale, malt liquor, or beer, for its delivery, or for attendance at the event; and

(2) the commission consents in writing to the delivery.

(c) Nothing in this section shall be construed to authorize an increase in the quantity of wine, ale, malt liquor, or beer authorized to be produced by a person under the authority of Section 109.21(a) of this code.

Added by Acts 1989, 71st Leg., ch. 310, Sec. 2, eff. June 14, 1989.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 354, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 109.22. DELIVERY OF HOME-PRODUCED WINE OR MALT BEVERAGES FOR CERTAIN PURPOSES. (a) This section applies only to a person who is authorized under Section 109.21(a) to produce wine or malt beverages.

(b) For the purpose of participating in an organized tasting, evaluation, competition, or literary review, a person to whom this section applies may deliver wine or malt beverages produced and manufactured by the person to locations that are not licensed under this code for the purpose of submitting those products to an evaluation at an organized tasting competition that is closed to the general public or by a reviewer whose reviews are published if:

(1) no charge of any kind is made for the wine or malt beverages, for their delivery, or for attendance at the event; and

(2) the commission consents in writing to the delivery.

(c) Nothing in this section shall be construed to authorize an increase in the quantity of wine or malt beverages authorized to be produced by a person under the authority of Section 109.21(a).

Added by Acts 1989, 71st Leg., ch. 310, Sec. 2, eff. June 14, 1989.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 354, eff. September 1, 2021.

SUBCHAPTER C. LOCAL REGULATION OF ALCOHOLIC BEVERAGES

Sec. 109.31. MUNICIPAL REGULATION OF LIQUOR. A city by charter may prohibit the sale of liquor in all or part of the residential sections of the city.

Acts 1977, 65th Leg., p. 525, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 109.32. MUNICIPAL AND COUNTY REGULATION OF BEER. (a) An incorporated city or town by charter or ordinance may:

(1) prohibit the sale of beer in a residential area; and

(2) regulate the sale of beer and prescribe the hours when it may be sold, except the city or town may not permit the sale of beer when its sale is prohibited by this code.

(b) In a county that has only one incorporated city or town that has a majority of the population of the county, according to the most recent federal census, and where the city or town has shortened the hours of sale for beer on Sundays by a valid charter amendment or ordinance before January 1, 1957, the commissioners court may enter an order prohibiting the sale of beer on Sundays during the hours it is prohibited in the city or town. The order may apply to all or part of the area of the county located outside the city or town. The commissioners court may not adopt the order unless it first publishes notice for four consecutive weeks in a newspaper of general circulation in the county published in the county or a nearby county.

(c) In exercising the authority granted by this section, the city, town, or county may distinguish between retailers selling beer for on-premises consumption and retailers, manufacturers, or distributors who do not sell beer for on-premises consumption.

Acts 1977, 65th Leg., p. 525, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 355, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 109.32. MUNICIPAL AND COUNTY REGULATION OF MALT BEVERAGES. (a) An incorporated city or town by charter or ordinance may:

(1) prohibit the sale of malt beverages in a residential area; and

(2) regulate the sale of malt beverages and prescribe the hours when malt beverages may be sold, except the city or town may not permit the sale of malt beverages when the sale of malt beverages is prohibited by this code.

(b) In a county that has only one incorporated city or town that has a majority of the population of the county, according to the most recent federal census, and where the city or town has shortened

the hours of sale for malt beverages on Sundays by a valid charter amendment or ordinance before January 1, 1957, the commissioners court may enter an order prohibiting the sale of malt beverages on Sundays during the hours the sale of malt beverages is prohibited in the city or town. The order may apply to all or part of the area of the county located outside the city or town. The commissioners court may not adopt the order unless it first publishes notice for four consecutive weeks in a newspaper of general circulation in the county published in the county or a nearby county.

(c) In exercising the authority granted by this section, the city, town, or county may distinguish between retailers selling malt beverages for on-premises consumption and retailers, brewers, or distributors who do not sell malt beverages for on-premises consumption.

Acts 1977, 65th Leg., p. 525, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 355, eff. September 1, 2021.

Sec. 109.33. SALES NEAR SCHOOL, CHURCH, OR HOSPITAL. (a) The commissioners court of a county may enact regulations applicable in areas in the county outside an incorporated city or town, and the governing board of an incorporated city or town may enact regulations applicable in the city or town, prohibiting the sale of alcoholic beverages by a dealer whose place of business is within:

(1) 300 feet of a church, public or private school, or public hospital;

(2) 1,000 feet of a public school, if the commissioners court or the governing body receives a request from the board of trustees of a school district under Section 38.007, Education Code; or

(3) 1,000 feet of a private school if the commissioners court or the governing body receives a request from the governing body of the private school.

(b) The measurement of the distance between the place of business where alcoholic beverages are sold and the church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in direct line across

intersections. The measurement of the distance between the place of business where alcoholic beverages are sold and the public or private school shall be:

(1) in a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or

(2) if the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.

(c) Every applicant for an original alcoholic beverage license or permit for a location with a door by which the public may enter the place of business of the applicant that is within 1,000 feet of the nearest property line of a public or private school, measured along street lines and directly across intersections, must give written notice of the application to officials of the public or private school before filing the application with the commission. A copy of the notice must be submitted to the commission with the application. This subsection does not apply to a permit or license covering a premise where minors are prohibited from entering the premises under Section 109.53.

(d) As to any dealer who held a license or permit on September 1, 1983, in a location where a regulation under this section was in effect on that date, for purposes of Subsection (a), but not Subsection (c), of this section, the measurement of the distance between the place of business of the dealer and a public or private school shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.

(e) The commissioners court of a county or the governing board of a city or town that has enacted a regulation under Subsection (a) of this section may also allow variances to the regulation if the commissioners court or governing body determines that enforcement of the regulation in a particular instance is not in the best interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, is not effective or necessary, or for any other reason the court or governing board,

after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.

Text of subsection effective until September 1, 2021

(f) Subsections (a)(2) and (3) do not apply to the holder of:

(1) a retail on-premises consumption permit or license if less than 50 percent of the gross receipts for the premises is from the sale or service of alcoholic beverages;

(2) a retail off-premises consumption permit or license if less than 50 percent of the gross receipts for the premises, excluding the sale of items subject to the motor fuels tax, is from the sale or service of alcoholic beverages; or

(3) a wholesaler's, distributor's, brewer's, distiller's and rectifier's, winery, wine bottler's or manufacturer's permit or license, or any other license or permit held by a wholesaler or manufacturer as those words are ordinarily used and understood in Chapter 102.

Text of subsection effective on September 1, 2021

(f) Subsections (a)(2) and (3) do not apply to the holder of:

(1) a retail on-premises consumption permit or license if less than 50 percent of the gross receipts for the premises is from the sale or service of alcoholic beverages;

(2) a retail off-premises consumption permit or license if less than 50 percent of the gross receipts for the premises, excluding the sale of items subject to the motor fuels tax, is from the sale or service of alcoholic beverages; or

(3) a wholesaler's, distributor's, brewer's, distiller's and rectifier's, or winery permit or license, or any other license or permit held by a wholesaler or manufacturer as those words are ordinarily used and understood in Chapter 102.

(f-1) Subsections (a)(2) and (3) do not apply to a performing arts facility leased to a nonprofit organization under a policy adopted under Section 11.179, Education Code.

Text of subsection effective until September 1, 2021

(g) Subsection (a)(3) does not apply to the holder of:

(1) a license or permit issued under Chapter 27, 31, or 72 who is operating on the premises of a private school; or

(2) a license or permit covering a premise where minors are prohibited from entering under Section 109.53 and that is located

within 1,000 feet of a private school.

Text of subsection effective on September 1, 2021

(g) Subsection (a)(3) does not apply to the holder of:

(1) a permit issued under Chapter 30 who is operating on the premises of a private school; or

(2) a license or permit covering a premise where minors are prohibited from entering under Section 109.53 and that is located within 1,000 feet of a private school.

(h) Subsection (a)(1) does not apply to the holder of:

(1) a license or permit who also holds a food and beverage certificate covering a premise that is located within 300 feet of a private school; or

(2) a license or permit covering a premise where minors are prohibited from entering under Section 109.53 and that is located within 300 feet of a private school.

(i) In this section, "private school" means a private school, including a parochial school, that:

(1) offers a course of instruction for students in one or more grades from kindergarten through grade 12; and

(2) has more than 100 students enrolled and attending courses at a single location.

Acts 1977, 65th Leg., p. 526, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 4038, ch. 629, Sec. 1, eff. Sept. 1, 1983; Acts 1995, 74th Leg., ch. 260, Sec. 7, eff. May 30, 1995; Acts 2001, 77th Leg., ch. 388, Sec. 2, eff. May 28, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 834 (H.B. 2633), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 356, eff. September 1, 2021.

Sec. 109.331. SALES NEAR DAY-CARE CENTER OR CHILD-CARE FACILITY. (a) This section applies only to a permit or license holder under Chapter 25, 28, 32, 69, or 74 who does not hold a food and beverage certificate.

(b) Except as provided by this subsection, the provisions of Section 109.33 relating to a public school also apply to a day-care center and a child-care facility as those terms are defined by

Section 42.002, Human Resources Code. Sections 109.33(a)(2) and (c) do not apply to a day-care center or child-care facility.

(c) This section does not apply to a permit or license holder who sells alcoholic beverages if:

(1) the permit or license holder and the day-care center or child-care facility are located on different stories of a multistory building; or

(2) the permit or license holder and the day-care center or child-care facility are located in separate buildings and either the permit or license holder or the day-care center or child-care facility is located on the second story or higher of a multistory building.

(d) This section does not apply to a family home, specialized child-care home, or agency foster home as those terms are defined by Section 42.002, Human Resources Code.

Added by Acts 1997, 75th Leg., ch. 723, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 1, eff. September 1, 2017.

Sec. 109.35. ORDERS FOR PROHIBITION ON CONSUMPTION. (a) If the governing body of a municipality determines that the possession of an open container or the public consumption of alcoholic beverages in the central business district of the municipality is a risk to the health and safety of the citizens of the municipality, the governing body may by charter or ordinance prohibit the possession of an open container or the public consumption of alcoholic beverages in that central business district.

(b) If a municipality prohibits the possession of an open container or the public consumption of alcoholic beverages in the central business district of the city, the municipality must adopt a map, plat, or diagram showing the central business district that is covered by the prohibition.

(c) The municipality's charter or ordinance may not prohibit the possession of an open container or the consumption of alcoholic beverages in motor vehicles, buildings not owned or controlled by the municipality, residential structures, or licensed premises located in the area of prohibition.

(c-1) In accordance with Section 1.06, this section does not authorize municipal regulation of the possession of an open container or the public consumption of alcoholic beverages except as expressly provided by this section.

(d) In this section, "central business district" means a compact and contiguous geographical area of a municipality in which at least 90 percent of the land is used or zoned for commercial purposes and that is the area that has historically been the primary location in the municipality where business has been transacted.

(e) In this section, "open container" means a container that is no longer sealed.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 89, eff. Sept. 1, 1993.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 555 (H.B. 2296), Sec. 1, eff. September 1, 2015.

Sec. 109.36. CONSUMPTION OF ALCOHOLIC BEVERAGES NEAR HOMELESS SHELTER OR SUBSTANCE ABUSE TREATMENT CENTER. (a) In this section:

(1) "Central business district" means a compact and contiguous geographical area of a municipality used for commercial purposes that has historically been the primary location in the municipality where business has been transacted.

(2) "Homeless shelter" means a supervised publicly or privately operated shelter or other facility that is designed to provide temporary living accommodations to individuals who lack a fixed regular and adequate residence.

(3) "Open container" has the meaning assigned by Section 109.35.

(b) The commissioners court of a county may enact regulations applicable in areas in the county outside an incorporated city or town, and the governing board of an incorporated city or town may enact regulations applicable in the city or town, prohibiting the possession of an open container or the consumption of an alcoholic beverage on a public street, public alley, or public sidewalk within 1,000 feet of the property line of a homeless shelter that is not located in a central business district or a substance abuse treatment center that is not located in a central business district.

(c) If the commissioners court of a county or the governing

board of an incorporated city or town enacts a prohibition under Subsection (b), the commissioners court or the governing board may enact regulations allowing special temporary events for which Subsection (b) may be suspended.

Added by Acts 2007, 80th Leg., R.S., Ch. 988 (S.B. 1238), Sec. 1, eff. September 1, 2007.

SUBCHAPTER D. OTHER MISCELLANEOUS PROVISIONS

Sec. 109.51. SACRAMENTAL WINE. Nothing in this code limits the right of a minister, priest, rabbi, or religious organization from obtaining sacramental wine for sacramental purposes only, directly from any lawful source inside or outside the state. No fee or tax may be directly or indirectly charged for the exercise of this right. The commission by rule and regulation may regulate the importation of sacramental wine and prevent unlawful use of the right granted by this section.

Acts 1977, 65th Leg., p. 526, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 109.52. WAREHOUSE RECEIPTS. A bank, trust company, or other financial institution that owns or possesses warehouse receipts for alcoholic beverages as security for a loan, after receiving permission from the commission or administrator, may sell the beverages to a licensee or permittee authorized to purchase them.

Acts 1977, 65th Leg., p. 526, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 109.53. CITIZENSHIP OF PERMITTEE; CONTROL OF PREMISES; SUBTERFUGE OWNERSHIP; ETC. No person who has not been a citizen of Texas for a period of one year immediately preceding the filing of his application therefor shall be eligible to receive a permit under this code. No permit except a brewer's permit, and such other licenses and permits as are necessary to the operation of a brewer's permit, shall be issued to a corporation unless the same be incorporated under the laws of the state and unless at least 51 percent of the stock of the corporation is owned at all times by

citizens who have resided within the state for a period of one year and who possess the qualifications required of other applicants for permits; provided, however, that the restrictions contained in the preceding clause shall not apply to domestic or foreign corporations that were engaged in the legal alcoholic beverage business in this state under charter or permit prior to August 24, 1935. Partnerships, firms, and associations applying for permits shall be composed wholly of citizens possessing the qualifications above enumerated. Any corporation (except carrier) holding a permit under this code which shall violate any provisions hereof, or any rule or regulation promulgated hereunder, shall be subject to forfeiture of its charter and it shall be the duty of the attorney general, when any such violation is called to his attention, to file a suit for such cancellation in a district court of Travis County. Such provisions of this section as require Texas citizenship or require incorporation in Texas shall not apply to the holders of agent's, industrial, and carrier's permits. No person shall sell, warehouse, store or solicit orders for any liquor in any wet area without first having procured a permit of the class required for such privilege, or consent to the use of or allow his permit to be displayed by or used by any person other than the one to whom the permit was issued. It is the intent of the legislature to prevent subterfuge ownership of or unlawful use of a permit or the premises covered by such permit; and all provisions of this code shall be liberally construed to carry out this intent, and it shall be the duty of the commission or the administrator to provide strict adherence to the general policy of preventing subterfuge ownership and related practices hereinafter declared to constitute unlawful trade practices. No applicant for a package store permit or a renewal thereof shall have authority to designate as "premise" and the commission or administrator shall not approve a lesser area than that specifically defined as "premise" in Section 11.49(a) of this code. Every permittee shall have and maintain exclusive occupancy and control of the entire licensed premises in every phase of the storage, distribution, possession, and transportation and sale of all alcoholic beverages purchased, stored or sold on the licensed premises. Any device, scheme or plan which surrenders control of the employees, premises or business of the permittee to persons other than the permittee shall be unlawful. No minor, unless accompanied by his or her parent, guardian, adult husband or adult wife, or other adult person into whose custody he or

she has been committed for the time by some court, shall knowingly be allowed on the premises of the holder of a package store permit. The prohibition against the presence of a minor on the premises of the holder of a package store permit does not apply to the presence on the premises of the holder or a person lawfully employed by the holder. Any package store permittee who shall be injured in his business or property by another package store permittee by reason of anything prohibited in this section may institute suit in any district court in the county wherein the violation is alleged to have occurred to require enforcement by injunctive procedures and/or to recover threefold the damages by him sustained; plus costs of suit including a reasonable attorney's fee. The provisions prohibiting the licensing of only a portion of a building as premise for a package store permit shall not apply to hotels as already defined in this code.

Acts 1977, 65th Leg., p. 526, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1981, 67th Leg., p. 258, ch. 107, Sec. 15, eff. Sept. 1, 1981; Acts 1985, 69th Leg., ch. 285, Sec. 13, eff. Sept. 1, 1986; Acts 1985, 69th Leg., ch. 462, Sec. 14, eff. Sept. 1, 1986; Acts 1993, 73rd Leg., ch. 934, Sec. 90, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 191, Sec. 2, eff. Sept. 1, 2001.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 357, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 109.53. CITIZENSHIP OF PERMITTEE; CONTROL OF PREMISES; SUBTERFUGE OWNERSHIP; ETC. A person who has not been a citizen of Texas for a period of one year immediately preceding the filing of the person's application therefor is not eligible to receive a permit under this code. No permit shall be issued to a corporation unless the same be incorporated under the laws of the state and unless at least 51 percent of the stock of the corporation is owned at all times by citizens who have resided within the state for a period of one year and who possess the qualifications required of other applicants for permits; provided, however, that the restrictions contained in the preceding clause shall not apply to domestic or foreign corporations that were engaged in the legal alcoholic

beverage business in this state under charter or permit prior to August 24, 1935. Partnerships, firms, and associations applying for permits shall be composed wholly of citizens possessing the qualifications above enumerated. Any corporation (except carrier) holding a permit under this code which shall violate any provisions hereof, or any rule or regulation promulgated hereunder, shall be subject to forfeiture of its charter and it shall be the duty of the attorney general, when any such violation is called to the attorney general's attention, to file a suit for such cancellation in a district court of Travis County. The provisions of this section that require Texas citizenship or require incorporation in Texas do not apply to the holders of carrier's permits. A person may not sell, warehouse, store or solicit orders for any liquor in any wet area without first having procured a permit of the class required for such privilege, or consent to the use of or allow the person's permit to be displayed by or used by any person other than the one to whom the permit was issued. It is the intent of the legislature to prevent subterfuge ownership of or unlawful use of a permit or the premises covered by such permit; and all provisions of this code shall be liberally construed to carry out this intent, and it shall be the duty of the commission or the administrator to provide strict adherence to the general policy of preventing subterfuge ownership and related practices hereinafter declared to constitute unlawful trade practices. An applicant for a package store permit or a renewal of a package store permit may not designate as "premise" and the commission shall not approve a lesser area than that specifically defined as "premise" in Section 11.49(a). Every permittee shall have and maintain exclusive occupancy and control of the entire licensed premises in every phase of the storage, distribution, possession, and transportation and sale of all alcoholic beverages purchased, stored or sold on the licensed premises. Any device, scheme or plan which surrenders control of the employees, premises or business of the permittee to persons other than the permittee shall be unlawful. No minor, unless accompanied by his or her parent, guardian, adult husband or adult wife, or other adult person into whose custody he or she has been committed for the time by some court, shall knowingly be allowed on the premises of the holder of a package store permit. The prohibition against the presence of a minor on the premises of the holder of a package store permit does not apply to the presence on the premises of the holder or a person lawfully employed by the

holder. Any package store permittee who shall be injured in the permittee's business or property by another package store permittee by reason of anything prohibited in this section may institute suit in any district court in the county wherein the violation is alleged to have occurred to require enforcement by injunctive procedures and/or to recover threefold the damages sustained by the permittee; plus costs of suit including a reasonable attorney's fee. The provisions prohibiting the licensing of only a portion of a building as premise for a package store permit shall not apply to hotels as already defined in this code.

Acts 1977, 65th Leg., p. 526, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 258, ch. 107, Sec. 15, eff. Sept. 1, 1981; Acts 1985, 69th Leg., ch. 285, Sec. 13, eff. Sept. 1, 1986; Acts 1985, 69th Leg., ch. 462, Sec. 14, eff. Sept. 1, 1986; Acts 1993, 73rd Leg., ch. 934, Sec. 90, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 191, Sec. 2, eff. Sept. 1, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 357, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 109.531. ADDITIONAL REQUIREMENTS FOR APPLICATION OR RENEWAL OF PERMIT OR LICENSE BY OUT-OF-STATE RESIDENTS. In addition to any other requirement for a license or permit under this code, a person who has not been a citizen of this state for a period of one year preceding the date the person filed an application for a permit or license under Chapters 25-34, 44, 48-51, 69-72, or Chapter 74 of this code shall:

(1) designate an agent, who is a citizen of this state, to represent the person in matters before the commission and to be responsible for the proper conduct of any activity of the licensee or permittee; and

(2) submit to a criminal history background check.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 91, eff. Sept. 1, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 358, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 109.531. ADDITIONAL REQUIREMENTS FOR APPLICATION OR RENEWAL OF PERMIT, LICENSE, OR CERTIFICATE BY OUT-OF-STATE RESIDENTS. In addition to any other requirement for a license, permit, or certificate under this code, a person who has not been a citizen of this state for a period of one year preceding the date the person filed an application for a permit, license, or certificate under Chapter 25, 26, 28, 29, 30, 32, 48, 50, 69, 71, or 74 shall:

(1) designate an agent, who is a citizen of this state, to represent the person in matters before the commission and to be responsible for the proper conduct of any activity of the licensee or permittee; and

(2) submit to a criminal history background check.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 91, eff. Sept. 1, 1993.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 358, eff. September 1, 2021.

Sec. 109.532. CRIMINAL HISTORY BACKGROUND CHECKS. (a) The commission shall establish a uniform method of obtaining criminal history information. The uniform method must require:

(1) either a complete set of fingerprints or the complete name of the person being investigated to be submitted to the Department of Public Safety or to another law enforcement agency; and

(2) if fingerprints are submitted, the fingerprints must be submitted to the Federal Bureau of Investigation for further information if a relevant disqualifying record or other substantive information is not obtained from a state or local law enforcement agency.

(b) The commission may deny a license or permit or the renewal of a license or permit for an applicant if:

(1) the commission determines that a previous criminal conviction or deferred adjudication indicates that the applicant is not qualified or suitable for a license or permit; or

(2) the applicant fails to provide a complete set of

fingerprints if the commission establishes that method of obtaining conviction information.

(c) All criminal history information received by the commission is privileged information and is for the exclusive use of the commission. The information may be released or otherwise disclosed to any other person or agency only:

(1) on court order; or

(2) with the consent of the person being investigated.

(d) The commission shall collect and destroy criminal history information relating to a person immediately after the commission makes a decision on the eligibility of the person for registration.

(e) A person commits an offense if the person releases or discloses in violation of this section criminal history information received by the commission. An offense under this subsection is a felony of the second degree.

(f) The commission may charge a fee to cover the cost of a criminal history background check.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 91, eff. Sept. 1, 1993.

Sec. 109.54. FESTIVALS AND CIVIC CELEBRATIONS.

Text of subsection effective until September 1, 2021

(a) Any licensee who has purchased beer for sale at the site of a festival or civic celebration which has been held annually for at least 15 years during a specified period not exceeding 10 days shall be authorized for 24 hours following the official close of the celebration to sell any beer remaining at the site to any licensee or permittee authorized to purchase beer for resale.

Text of subsection effective on September 1, 2021

(a) Any licensee who has purchased malt beverages for sale at the site of a festival or civic celebration which has been held annually for at least 15 years during a specified period not exceeding 10 days shall be authorized for 24 hours following the official close of the celebration to sell any malt beverages remaining at the site to any licensee or permittee authorized to purchase malt beverages for resale.

(b) Records of any such transactions shall be kept as may be required by the administrator.

Added by Acts 1979, 66th Leg., p. 864, ch. 388, Sec. 1, eff. June 6, 1979.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 359, eff. September 1, 2021.

Sec. 109.541. TASTINGS AT CERTAIN FESTIVALS AND CIVIC CELEBRATIONS. A person who holds a license or permit to manufacture alcoholic beverages in this state may conduct product tastings without the issuance of another license or permit under this code if those tastings are conducted:

(1) as part of and under the direction of the "Go Texan" Partner Program under Chapter 46, Agriculture Code; and

(2) during a festival or civic celebration that:

(A) has been held near-annually for at least 100 years; and

(B) is at least 21 days long.

Added by Acts 2019, 86th Leg., R.S., Ch. 911 (H.B. 3768), Sec. 1, eff. September 1, 2019.

Sec. 109.55. CERTIFICATE. If after June 1, 1987, the certificate is filed under Section 15, Chapter 285, or Section 16, Chapter 462, Acts of the 69th Legislature, Regular Session, 1985, the contingency described by Subsection (c) of each of those sections is effective on the first day of the month following the month in which the certificate is filed.

Added by Acts 1987, 70th Leg., ch. 495, Sec. 5, eff. Aug. 31, 1987.

Sec. 109.56. CONVICTION OF OFFENSE RELATING TO DISCRIMINATION; POLICY OF NONDISCRIMINATION. The commission or administrator may suspend for not more than 60 days or cancel an original or renewal permit if it is found, after notice and hearing that:

(1) the permittee has been finally convicted of any offense under state or federal law or a municipal ordinance prohibiting the violation of an individual's civil rights or the discrimination against an individual on the basis of the individual's race, color,

creed, sex, or religion; and

(2) the offense was committed on the licensed premises or in connection with the operation of the permittee's business.

Added by Acts 1987, 70th Leg., ch. 303, Sec. 8, eff. June 11, 1987.

Sec. 109.57. APPLICATION OF CODE; OTHER JURISDICTIONS. (a) Except as is expressly authorized by this code, a regulation, charter, or ordinance promulgated by a governmental entity of this state may not impose stricter standards on premises or businesses required to have a license or permit under this code than are imposed on similar premises or businesses that are not required to have such a license or permit.

(b) It is the intent of the legislature that this code shall exclusively govern the regulation of alcoholic beverages in this state, and that except as permitted by this code, a governmental entity of this state may not discriminate against a business holding a license or permit under this code.

(c) Neither this section nor Section 1.06 of this code affects the validity or invalidity of a zoning regulation that was formally enacted before June 11, 1987, and that is otherwise valid, or any amendment to such a regulation enacted after June 11, 1987, if the amendment lessens the restrictions on the licensee or permittee or does not impose additional restrictions on the licensee or permittee. For purposes of this subsection, "zoning regulation" means any charter provision, rule, regulation, or other enactment governing the location and use of buildings, other structures, and land.

(d) This section does not affect the authority of a governmental entity to regulate, in a manner as otherwise permitted by law, the location of:

(1) a massage parlor, nude modeling studio, or other sexually oriented business;

(2) an establishment that derives 75 percent or more of the establishment's gross revenue from the on-premise sale of alcoholic beverages; or

(3) an establishment that:

(A) derives 50 percent or more of the establishment's gross revenue from the on-premise sale of alcoholic beverages; and

(B) is located in a municipality or county, any portion

of which is located not more than 50 miles from an international border.

Text of subsection effective until September 1, 2021

(e) A municipality located in a county that has a population of 2.2 million or more and that is adjacent to a county with a population of more than 600,000 or a municipality located in a county with a population of 600,000 or more and that is adjacent to a county with a population of 2.2 million or more may regulate, in a manner not otherwise prohibited by law, the location of an establishment issued a permit under Chapter 32 or 33 if:

(1) the establishment derives 35 percent or more of the establishment's gross revenue from the on-premises sale or service of alcoholic beverages and the premises of the establishment are located in a dry area; and

(2) the permit is not issued to a fraternal or veterans organization or the holder of a food and beverage certificate.

Text of subsection effective on September 1, 2021

(e) A municipality located in a county that has a population of 2.2 million or more and that is adjacent to a county with a population of more than 600,000 or a municipality located in a county with a population of 600,000 or more and that is adjacent to a county with a population of 2.2 million or more may regulate, in a manner not otherwise prohibited by law, the location of an establishment issued a permit under Chapter 32 if:

(1) the establishment derives 35 percent or more of the establishment's gross revenue from the on-premises sale or service of alcoholic beverages and the premises of the establishment are located in a dry area; and

(2) the permit is not issued to a fraternal or veterans organization or the holder of a food and beverage certificate.

Added by Acts 1987, 70th Leg., ch. 303, Sec. 8, eff. June 11, 1987. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 1, Sec. 3, eff. Aug. 23, 1991; Acts 1995, 74th Leg., ch. 1060, Sec. 9, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 669, Sec. 7, eff. Sept. 1, 2001. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 2, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 486 (H.B. 2035), Sec. 1, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 360, eff. September 1, 2021.

Sec. 109.58. RELAXATION OF RESTRICTIONS AS TO CHARITABLE EVENTS. (a) This code does not prohibit permit and license holders engaged in the alcoholic beverage industry at different levels from simultaneously or jointly sponsoring a civic, religious, or charitable event, including by providing or lending money, services, or other things of value directly to a civic, religious, or charitable entity in conjunction with the event, provided that:

(1) any license or permit to sell or serve alcoholic beverages at the event is held by a retailer who is independent of the sponsors; and

(2) none of the retailers who sponsor the event, if any, receive any direct benefit or service because of joint sponsorship by a wholesaler or manufacturer of alcoholic beverages.

(b) The commission by rule may set definite limitations consistent with the general provisions of this code that relax the restrictions of this code with respect to the sponsoring of a civic, religious, or charitable event or the making of a gift to civic, religious, or charitable organizations by permit and license holders engaged in the alcoholic beverage industry at different levels.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 92, eff. Sept. 1, 1993.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 747 (H.B. 3123), Sec. 1, eff. September 1, 2007.

Sec. 109.59. APPLICATION OF DISTANCE REQUIREMENTS. (a) If at the time an original alcoholic beverage permit or license is granted for a premises the premises satisfies the requirements regarding distance from schools, churches, and other types of premises established in this code and any other law or ordinance of the state or a political subdivision of the state in effect at that time, the premises shall be deemed to satisfy the distance requirements for all subsequent renewals of the license or permit.

(b) On the sale or transfer of the premises or the business on the premises in which a new original license or permit is required

for the premises, the premises shall be deemed to satisfy any distance requirements as if the issuance of the new original permit or license were a renewal of a previously held permit or license.

(c) Subsection (b) does not apply to the satisfaction of the distance requirement prescribed by Section 109.33(a)(2) for a public school, except that on the death of a permit or license holder or a person having an interest in a permit or license Subsection (b) does apply to the holder's surviving spouse or child of the holder or person if the spouse or child qualifies as a successor in interest to the permit or license.

(d) Subsection (a) does not apply to the satisfaction of the distance requirement prescribed by Section 109.33(a)(2) for a public school if the holder's permit or license has been suspended for a violation occurring after September 1, 1995, of any of the following provisions:

(1) Section 11.61(b)(1), (6)-(11), (13), (14), or (20); or

(2) Section 61.71(a)(5)-(8), (10), (11), (13), (16), (17), (21), or (23).

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 93, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 260, Sec. 8, eff. May 30, 1995.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 544 (S.B. 371), Sec. 5, eff. September 1, 2017.

Sec. 109.60. PURCHASES BY CERTAIN PERMITEES. For the convenience of the commission in performing its regulatory functions and the comptroller in examining tax accounts of mixed beverage permitees and private club permitees, each of these permitees is required to purchase separately and individually for each licensed premises any and all alcoholic beverages to be sold or served on the licensed premises.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 94, eff. Sept. 1, 1993.

Sec. 109.61. USE OF CERTAIN ELECTRONICALLY READABLE INFORMATION. (a) A person may access electronically readable information on a driver's license, commercial driver's license, or identification certificate for the purpose of complying with this

code or a rule of the commission, including for the purpose of preventing the person from committing an offense under this code.

(b) A person may not retain information accessed under this section unless the commission by rule requires the information to be retained. The person may not retain the information longer than the commission requires.

(b-1) Information retained may be printed to hard copy with a time and date confirmation from the transaction scan device or transferred to an electronic encrypted data storage or electronic record. After printing or transferring data, the transaction scan device may clear the scanned information from the device or any memory in the device. The commission by rule may set further requirements for the retention of information under this subsection.

(c) Information accessed under this section may not be marketed in any manner.

(d) A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor.

(e) It is an affirmative defense to prosecution under this code, for an offense having as an element the age of a person, that:

(1) a transaction scan device identified the license or certificate of the purchaser as valid and that the person is over 21, and the defendant accessed the information and relied on the results in good faith; or

(2) if the defendant is the owner of a store in which alcoholic beverages are sold at retail, the offense occurs in connection with a sale by an employee of the owner, and the owner had provided the employee with:

(A) a transaction scan device in working condition;

(B) adequate training in the use of the transaction scan device; and

(C) the defendant did not directly or indirectly encourage the employee to violate the law.

(f) The defense offered in Subsection (e) does not apply in actions to cancel, deny, or suspend the license or permit, except as provided by rules adopted by the commission under Section 5.31.

(g) In this section, "transaction scan device" includes an electronic age verification system authorized by commission rule operated in conjunction with a point of sale terminal that scans the purchaser's driver's license or identification certificate upon enrollment, associates the purchaser's personal identifying

information, as defined by Section 521.002(1)(C), Business & Commerce Code, with the purchaser's license or identification certificate information, and is capable of allowing a seller to verify a purchaser's age solely by accessing the data and information.

Added by Acts 2001, 77th Leg., ch. 1163, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 391 (S.B. 1465), Sec. 4, eff. September 1, 2005.
Acts 2007, 80th Leg., R.S., Ch. 1338 (S.B. 1828), Sec. 1, eff. June 15, 2007.

Sec. 109.62. TEMPORARY RELOCATION OF DISTRIBUTOR OR WHOLESALER DURING EMERGENCY. (a) In this section, "period of emergency" means a time during which weather, fire, earthquake, or other natural disaster, act of God, or catastrophe affects a distributor's or wholesaler's premises or an area of this state in a way that disrupts the distributor's or wholesaler's normal business operations to the extent that the business cannot receive deliveries at or make deliveries from the premises or perform necessary business operations at the premises.

(b) During a period of emergency, a distributor or wholesaler may temporarily operate all or part of the distributor's or wholesaler's business from an alternate location, including storing alcoholic beverages, maintaining required records, receiving alcoholic beverages from suppliers, dispatching orders intended for sale to authorized purchasers, and performing any other function the distributor or wholesaler is authorized by this code to perform at the licensed or permitted premises. The alternate location is considered the distributor's or wholesaler's licensed or permitted premises, as applicable, for the purposes of this code.

Text of subsection effective until September 1, 2021

(c) A holder of a permit or license under Chapter 41, 42, or 68 may make deliveries to and pick up deliveries from the alternate location in the same manner as this code and commission rules provide for the distributor's or wholesaler's licensed or permitted premises.

Text of subsection effective on September 1, 2021

(c) A holder of one of the following permits or licenses may make deliveries to and pick up deliveries from the alternate location

in the same manner as this code and commission rules provide for the distributor's or wholesaler's licensed or permitted premises:

(1) a distiller's and rectifier's permit;

(2) a winery permit;

(3) a wholesaler's permit;

(4) a general class B wholesaler's permit;

(5) a carrier permit;

(6) a brewer's license; or

(7) a general distributor's license.

(d) A distributor or wholesaler who temporarily operates all or part of the distributor's or wholesaler's business from an alternate location as provided by Subsection (b) shall immediately notify the administrator, in writing, of the alternate location. The notice must include a statement affirming that the alternate location satisfies the requirements of Subsection (e).

Text of subsection effective until September 1, 2021

(e) The alternate location must be in an area where the sale of the applicable alcoholic beverages has been approved by a local option election or where the distributor or wholesaler had been operating under Section 251.77 or 251.78. If beer, ale, or malt liquor is handled at the alternate location, the alternate location must be in the area assigned to the distributor or wholesaler under Subchapters C and D, Chapter 102.

Text of subsection effective on September 1, 2021

(e) The alternate location must be in an area where the sale of the applicable alcoholic beverages has been approved by a local option election or where the distributor or wholesaler had been operating under Section 251.77 or 251.78. If malt beverages are handled at the alternate location, the alternate location must be in the area assigned to the distributor under Subchapters C and D, Chapter 102.

(f) If the delivery vehicles operated by the affected distributor or wholesaler are wholly or partially disabled, the administrator may grant the distributor or wholesaler the authority to contract with another distributor or wholesaler for the temporary sharing of delivery vehicles. Authority granted under this subsection is in addition to authority granted under other provisions of this code to share delivery vehicles and warehouses.

(g) A distributor's or wholesaler's authority to operate from

an alternate location under this section expires on the first anniversary of the date the distributor or wholesaler commences business operations at an alternate location. The administrator may grant the distributor or wholesaler a one-year extension of the authority to operate from an alternate location under this section, after which the distributor or wholesaler must apply for a license or permit for the alternate location in the usual manner.

Added by Acts 2011, 82nd Leg., R.S., Ch. 517 (H.B. 2035), Sec. 3, eff. June 17, 2011.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 361, eff. September 1, 2021.

Sec. 109.63. BULK TRANSFERS BETWEEN CERTAIN PERMITTEES AND LICENSEES.

Text of subsection effective until September 1, 2021

(a) This section applies to the holder of a brewer's permit, distiller's and rectifier's permit, winery permit, wine bottler's permit, or manufacturer's license.

Text of subsection effective on September 1, 2021

(a) This section applies to the holder of a distiller's and rectifier's permit, winery permit, or brewer's license.

(b) Notwithstanding any other provision of this code, a permittee or licensee described by Subsection (a) may transfer in bulk an alcoholic beverage produced by the permittee or licensee to any other permittee or licensee described by that subsection provided that:

(1) the alcoholic beverage transferred is used only for manufacturing purposes by the recipient; and

(2) the transfer is permitted by federal law.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1171 (S.B. 652), Sec. 2, eff. September 1, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 362, eff. September 1, 2021.

Sec. 109.64. BULK PURCHASE FOR INDUSTRIAL USE. Section 102.32 applies to the bulk purchase of liquor for purposes described by Section 38.01 from the holder of a wholesaler's permit.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1171 (S.B. 652), Sec. 2, eff. September 1, 2013.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 363, eff. September 1, 2019.

CHAPTER 110. TEXAS WINE MARKETING ASSISTANCE PROGRAM IN DEPARTMENT OF AGRICULTURE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 110.001. DEFINITIONS. In this chapter:

(1) "Commissioner" means the commissioner of agriculture.

(2) "Program" means the Texas Wine Marketing Assistance Program.

Added by Acts 2001, 77th Leg., ch. 1001, Sec. 1.01, eff. Sept. 1, 2001.

Sec. 110.002. PROGRAM ESTABLISHED. (a) The Texas Wine Marketing Assistance Program is established in the Department of Agriculture to assist the Texas wine industry in promoting and marketing Texas wines and educating the public about the Texas wine industry.

(b) The commissioner, in consultation with the advisory committee established under Section 50B.002, Agriculture Code, shall adopt rules as necessary to implement the program.

Added by Acts 2001, 77th Leg., ch. 1001, Sec. 1.01, eff. Sept. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 4.08, eff. September 1, 2009.

SUBCHAPTER B. TEXAS WINE MARKETING ASSISTANCE PROGRAM

Sec. 110.051. PROMOTION, MARKETING, AND EDUCATION. The program

shall:

(1) organize a network of package stores to participate in a program promoting wines produced in this state and to deliver wine to consumers under Section 110.053;

(2) develop and maintain a database of wineries in this state and package stores that sell wines produced in this state that allows the program's staff to identify the winery in this state that produces a particular wine;

(3) operate a toll-free telephone number to:

(A) receive inquiries from persons who wish to purchase a particular wine produced in this state;

(B) make information about the wineries in this state and the package stores participating in the program available to the public; and

(C) refer a person who wishes to purchase a Texas wine to the winery that produces the wine and inform the person of arrangements that the person can make under Section 110.053 to pick up the wine at a package store or have the wine delivered to the person's address;

(4) use market research to develop a wine industry marketing plan to increase the consumption of and access to Texas wine;

(5) educate the public about wines produced in the state by providing publicity about the information in the program's database to the public and making the information available to the public through the department's toll-free telephone number and electronically available through the Internet;

(6) promote wineries in this state and package stores that participate in the program; and

(7) promote and market, and educate consumers about, the wines produced in this state using any other method the commissioner determines is appropriate.

Added by Acts 2001, 77th Leg., ch. 1001, Sec. 1.01, eff. Sept. 1, 2001.

Sec. 110.052. PARTICIPATION OF PACKAGE STORES. (a) Participation in the program by a package store is voluntary.

(b) The commissioner by rule may establish standards that a

package store that participates in the program must meet.

Added by Acts 2001, 77th Leg., ch. 1001, Sec. 1.01, eff. Sept. 1, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 36 (S.B. 877), Sec. 4, eff. May 9, 2005.

Sec. 110.053. SALE AND SHIPMENT OF WINE THROUGH PROGRAM. (a) A person who purchases wine from a winery in this state may ship the wine in accordance with:

(1) Section 16.09; or

(2) this section.

(b) If a person who purchases wine from a winery in this state is not physically present at the winery, the winery may ship the wine to a package store that participates in the program. On receipt of the wine, the package store shall notify the purchaser that the wine is available to be picked up by the purchaser at the package store or shipped to the purchaser by the package store.

(c) A package store that participates in the program may charge a purchaser a handling fee of not more than $3.50 for each order of wine that the purchaser picks up at the package store. The handling fee is not subject to state or local sales tax.

(d) If a purchaser elects to have the package store ship the wine to the purchaser, the package store and the purchaser must agree on the shipping arrangements.

(e) The package store may return a wine order to the winery if the purchaser does not pick up wine or make arrangements to have the wine shipped to the purchaser before the 30th day after the date the purchaser is notified under Subsection (b). The winery shall accept return of the wine from the package store.

(f) For the purposes of this code, a purchase of wine under this section is considered to have occurred on the premises of the winery.

(g) A package store that ships wine under this section is not liable for the actions of the carrier that delivers the wine.

Added by Acts 2001, 77th Leg., ch. 1001, Sec. 1.01, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 36 (S.B. 877), Sec. 5, eff. May 9, 2005.

Sec. 110.054. DELIVERY OF WINE IN A DRY AREA. A package store that participates in the program may ship wine under Section 110.053 to a person who resides in a dry area if:

(1) the delivery is made by the holder of a carrier permit; and

(2) the package is clearly labeled as requiring the signature of a person 21 years of age or older for delivery.

Added by Acts 2001, 77th Leg., ch. 1001, Sec. 1.01, eff. Sept. 1, 2001.

Sec. 110.055. SHIPPING FORM. The commission by rule shall adopt a standard invoice for shipping wine under Section 110.053 from a winery to a package store and from a package store to a purchaser that allows the commission to monitor the sale and delivery of wine through the program, including the amount of wine sold through the program and the payment of taxes on that wine.

Added by Acts 2001, 77th Leg., ch. 1001, Sec. 1.01, eff. Sept. 1, 2001.

TITLE 5. TAXATION
CHAPTER 201. LIQUOR TAXES

Text of subchapter effective until September 1, 2021

Text of subchapter effective until September 1, 2021

SUBCHAPTER A. TAX ON LIQUOR OTHER THAN ALE AND MALT LIQUOR

Text of section effective until September 1, 2021

Sec. 201.01. LIQUOR. In this subchapter, "liquor" does not include ale or malt liquor.

Acts 1977, 65th Leg., p. 529, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 365, eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 201.011. TIMELY FILING: DILIGENCE. A person filing a report or making a tax payment complies with the filing requirements for timeliness for a report not filed or a payment not made on time if the person exercised reasonable diligence to comply with the filing requirements and the failure to file or the making of a late payment is not the fault of the person.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 95, eff. Sept. 1, 1993.

Text of section effective until September 1, 2021

Sec. 201.02. "FIRST SALE" DEFINED. In this subchapter, "first sale":

(1) as applied to liquor imported into this state by the holder of a wholesaler's permit authorizing importation, means the first actual sale by the permittee to the holder of any other permit authorizing the retail sale of the beverage or to the holder of a local distributor's permit; and

(2) as applied to all other liquor, means the first sale, possession, distribution, or use in this state, except that the term does not include the first sale by:

(A) the holder of a winery permit to another holder of a winery permit or the holder of a wholesaler's permit; or

(B) the holder of a distiller's and rectifier's permit to the holder of a wholesaler's permit.

Acts 1977, 65th Leg., p. 529, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 628 (S.B. 799), Sec. 1, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. 1090), Sec. 23, eff. September 1, 2013.

Text of section effective until September 1, 2021

Sec. 201.03. TAX ON DISTILLED SPIRITS. (a) A tax is imposed on the first sale of distilled spirits at the rate of $2.40 per

gallon.

(b) The minimum tax imposed on packages of distilled spirits containing two ounces or less is five cents per package.

(c) Should packages containing less than one-half pint but more than two ounces ever be legalized in this state, the minimum tax imposed on each of these packages is $0.122.

Acts 1977, 65th Leg., p. 529, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 2, Sec. 8, eff. Oct. 2, 1984.

Text of section effective until September 1, 2021

Sec. 201.04. TAX ON VINOUS LIQUOR. (a) A tax is imposed on the first sale of vinous liquor that does not contain over 14 percent of alcohol by volume at the rate of 20.4 cents per gallon.

(b) A tax is imposed on vinous liquor that contains more than 14 percent of alcohol by volume at the rate of 40.8 cents per gallon.

(c) A tax is imposed on artificially carbonated and natural sparkling vinous liquor at the rate of 51.6 cents per gallon.

Acts 1977, 65th Leg., p. 529, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 2, Sec. 9, eff. Oct. 2, 1984.

Text of section effective until September 1, 2021

Sec. 201.05. REPORTING SYSTEM. A person who holds a permit authorizing the importation of liquor into this state shall pay the liquor tax by the reporting system under bond.

Acts 1977, 65th Leg., p. 530, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 201.06. PAYMENT OF TAX; DISCOUNTS. (a) The tax on liquor, levied and computed under this subchapter, shall be paid by a remittance payable to the comptroller and forwarded together with any required sworn statement of taxes due to the commission in Austin on or before the date it is due.

(b) A discount of two percent of the amount due shall be withheld by the permittee 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. 530, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 1.03, eff. Sept. 1, 1997.

Text of section effective until September 1, 2021

Sec. 201.07. DUE DATE. (a) The tax on liquor is due and payable on the 15th of the month following the first sale, together with a report on the tax due.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 1(3), eff. June 14, 2013.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 1(3), eff. June 14, 2013.

(d) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 1(3), eff. June 14, 2013.

Acts 1977, 65th Leg., p. 530, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 10.03, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 431 (S.B. 559), Sec. 1(3), eff. June 14, 2013.

Text of section effective until September 1, 2021

Sec. 201.075. SUMMARY SUSPENSION. (a) The commission may summarily suspend, without a hearing, the permit of a permittee 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 permittee or the permittee'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 permittee files all required returns and makes all required tax payments that are due.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 96, eff. Jan. 1, 1994. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995.

Text of section effective until September 1, 2021

Sec. 201.08. EXEMPTION FROM TAX. (a) No tax may be collected on liquor:

(1) shipped out of state for consumption outside the state; or

(2) sold aboard a ship for ship's supplies.

(b) The commission shall provide forms for claiming the exemption prescribed by this section.

(c) A tax credit shall be allowed for payment of any unintended or excess tax.

Acts 1977, 65th Leg., p. 530, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 201.09. REFUND DUE ON DISPOSITION OUTSIDE OF STATE. The holder of any permit authorizing the transportation of liquor out of this state may apply to the commission for a refund of the excise tax on liquor on which the state tax has been paid on proper proof that the liquor was sold or disposed of outside of this state.

Acts 1977, 65th Leg., p. 530, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 201.10. EXCESS TAX. A permittee is entitled to a refund or tax credit on future tax payment for any excess tax on liquor paid through oversight, mistake, error, or miscalculation.

Acts 1977, 65th Leg., p. 530, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 201.11. TAX CREDITS AND REFUNDS. The commission shall provide by rule for the equitable and final disposition of tax refunds or credits when liquor tax is overpaid or paid by mistake. It shall prescribe the time and manner for filing claims for credits and refunds and provide appropriate forms.

Acts 1977, 65th Leg., p. 530, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 201.12. APPROPRIATIONS FOR REFUNDS. Necessary funds from the collection of the tax on imported liquor before the revenue from that tax has been allocated may be appropriated for the payment of refunds of tax on imported liquor.

Acts 1977, 65th Leg., p. 530, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 201.13. SALE OF UNTAXED LIQUOR PROHIBITED. No person may sell, offer for sale, or store for the purpose of sale in this state any liquor on which the state or federal tax, if due, has not been paid.

Acts 1977, 65th Leg., p. 530, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 201.14. INVOICES OF TRANSPORTED LIQUOR. A holder of a permit authorizing the wholesaling of liquor and the transporting of liquor outside of this state shall furnish to the commission duplicate copies of all invoices for the sale of liquor transported outside of this state within 24 hours after the liquor has been removed from the permittee's place of business.

Acts 1977, 65th Leg., p. 531, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 201.15. EVIDENCE IN SUIT. In any suit brought to enforce the collection of tax owed by the holder of a permit authorizing the importation of liquor 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 relating to the computation and levy of the tax.

Acts 1977, 65th Leg., p. 531, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 201.16. PENALTY. A person who violates any section of this subchapter except Section 201.09 or 201.13 of this code commits a misdemeanor which on conviction is punishable by a fine of not less than $100 nor more than $1,000 or by imprisonment in the county jail for not less than 30 days nor more than one year. Violations of Sections 201.09 and 201.13 are punishable in accordance with Section 1.05 of this code.

Acts 1977, 65th Leg., p. 531, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 201.17. LIQUOR IN METRIC CONTAINERS. For the purpose of the taxes imposed on liquor by this subchapter and on ale and malt liquor by Subchapter B of this chapter, if the liquor is in metric containers the amount of tax due is determined by converting the metric amount into the equivalent amount in gallons and applying the appropriate tax rate. The commission shall prepare tables showing the amount of tax due on various types of liquor, including ale and malt liquor, in metric containers.

Acts 1977, 65th Leg., p. 531, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 366, eff. September 1, 2021.

Text of subchapter effective on September 1, 2021

Text of subchapter effective on September 1, 2021

SUBCHAPTER A. TAX ON LIQUOR

Text of section effective on September 1, 2021

Sec. 201.01. LIQUOR. In this subchapter, "liquor" does not include malt beverages.

Acts 1977, 65th Leg., p. 529, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 365, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 201.011. TIMELY FILING: DILIGENCE. A person filing a report or making a tax payment complies with the filing requirements for timeliness for a report not filed or a payment not made on time if the person exercised reasonable diligence to comply with the filing requirements and the failure to file or the making of a late payment is not the fault of the person.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 95, eff. Sept. 1, 1993.

Text of section effective on September 1, 2021

Sec. 201.02. "FIRST SALE" DEFINED. In this subchapter, "first sale":

(1) as applied to liquor imported into this state by the holder of a wholesaler's permit authorizing importation, means the first actual sale by the permittee to the holder of any other permit authorizing the retail sale of the beverage or to the holder of a local distributor's permit; and

(2) as applied to all other liquor, means the first sale, possession, distribution, or use in this state, except that the term does not include the first sale by:

(A) the holder of a winery permit to another holder of a winery permit or the holder of a wholesaler's permit; or

(B) the holder of a distiller's and rectifier's permit to the holder of a wholesaler's permit.

Acts 1977, 65th Leg., p. 529, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 628 (S.B. 799), Sec. 1, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. 1090), Sec. 23, eff. September 1, 2013.

Text of section effective on September 1, 2021

Sec. 201.03. TAX ON DISTILLED SPIRITS. (a) A tax is imposed on the first sale of distilled spirits at the rate of $2.40 per gallon.

(b) The minimum tax imposed on packages of distilled spirits containing two ounces or less is five cents per package.

(c) Should packages containing less than one-half pint but more than two ounces ever be legalized in this state, the minimum tax imposed on each of these packages is $0.122.

Acts 1977, 65th Leg., p. 529, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 2, Sec. 8, eff. Oct. 2, 1984.

Text of section effective on September 1, 2021

Sec. 201.04. TAX ON VINOUS LIQUOR. (a) A tax is imposed on the first sale of vinous liquor that does not contain over 14 percent of alcohol by volume at the rate of 20.4 cents per gallon.

(b) A tax is imposed on vinous liquor that contains more than 14 percent of alcohol by volume at the rate of 40.8 cents per gallon.

(c) A tax is imposed on artificially carbonated and natural sparkling vinous liquor at the rate of 51.6 cents per gallon.

Acts 1977, 65th Leg., p. 529, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 2, Sec. 9, eff. Oct. 2, 1984.

Text of section effective on September 1, 2021

Sec. 201.05. REPORTING SYSTEM. A person who holds a permit authorizing the importation of liquor into this state shall pay the

liquor tax by the reporting system under bond.

Acts 1977, 65th Leg., p. 530, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective on September 1, 2021

Sec. 201.06. PAYMENT OF TAX; DISCOUNTS. (a) The tax on liquor, levied and computed under this subchapter, shall be paid by a remittance payable to the comptroller and forwarded together with any required sworn statement of taxes due to the commission in Austin on or before the date it is due.

(b) A discount of two percent of the amount due shall be withheld by the permittee 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. 530, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 1.03, eff. Sept. 1, 1997.

Text of section effective on September 1, 2021

Sec. 201.07. DUE DATE. (a) The tax on liquor is due and payable on the 15th of the month following the first sale, together with a report on the tax due.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 1(3), eff. June 14, 2013.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 1(3), eff. June 14, 2013.

(d) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 1(3), eff. June 14, 2013.

Acts 1977, 65th Leg., p. 530, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 10.03, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 431 (S.B. 559), Sec. 1(3), eff. June 14, 2013.

Text of section effective on September 1, 2021

Sec. 201.075. SUMMARY SUSPENSION. (a) The commission may summarily suspend, without a hearing, the permit of a permittee 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 permittee or the permittee'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 permittee files all required returns and makes all required tax payments that are due.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 96, eff. Jan. 1, 1994. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995.

Text of section effective on September 1, 2021

Sec. 201.08. EXEMPTION FROM TAX. (a) No tax may be collected on liquor:

(1) shipped out of state for consumption outside the state; or

(2) sold aboard a ship for ship's supplies.

(b) The commission shall provide forms for claiming the exemption prescribed by this section.

(c) A tax credit shall be allowed for payment of any unintended or excess tax.

Acts 1977, 65th Leg., p. 530, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective on September 1, 2021

Sec. 201.09. REFUND DUE ON DISPOSITION OUTSIDE OF STATE. The holder of any permit authorizing the transportation of liquor out of this state may apply to the commission for a refund of the excise tax on liquor on which the state tax has been paid on proper proof that the liquor was sold or disposed of outside of this state.

Acts 1977, 65th Leg., p. 530, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective on September 1, 2021

Sec. 201.10. EXCESS TAX. A permittee is entitled to a refund or tax credit on future tax payment for any excess tax on liquor paid through oversight, mistake, error, or miscalculation.

Acts 1977, 65th Leg., p. 530, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective on September 1, 2021

Sec. 201.11. TAX CREDITS AND REFUNDS. The commission shall provide by rule for the equitable and final disposition of tax refunds or credits when liquor tax is overpaid or paid by mistake. It shall prescribe the time and manner for filing claims for credits and refunds and provide appropriate forms.

Acts 1977, 65th Leg., p. 530, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective on September 1, 2021

Sec. 201.12. APPROPRIATIONS FOR REFUNDS. Necessary funds from the collection of the tax on imported liquor before the revenue from that tax has been allocated may be appropriated for the payment of refunds of tax on imported liquor.

Acts 1977, 65th Leg., p. 530, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective on September 1, 2021

Sec. 201.13. SALE OF UNTAXED LIQUOR PROHIBITED. No person may sell, offer for sale, or store for the purpose of sale in this state any liquor on which the state or federal tax, if due, has not been paid.

Acts 1977, 65th Leg., p. 530, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective on September 1, 2021

Sec. 201.14. INVOICES OF TRANSPORTED LIQUOR. A holder of a permit authorizing the wholesaling of liquor and the transporting of liquor outside of this state shall furnish to the commission duplicate copies of all invoices for the sale of liquor transported outside of this state within 24 hours after the liquor has been removed from the permittee's place of business.

Acts 1977, 65th Leg., p. 531, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective on September 1, 2021

Sec. 201.15. EVIDENCE IN SUIT. In any suit brought to enforce the collection of tax owed by the holder of a permit authorizing the importation of liquor 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 relating to the computation and levy of the tax.

Acts 1977, 65th Leg., p. 531, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective on September 1, 2021

Sec. 201.16. PENALTY. A person who violates any section of this subchapter except Section 201.09 or 201.13 of this code commits a misdemeanor which on conviction is punishable by a fine of not less than $100 nor more than $1,000 or by imprisonment in the county jail for not less than 30 days nor more than one year. Violations of Sections 201.09 and 201.13 are punishable in accordance with Section 1.05 of this code.

Acts 1977, 65th Leg., p. 531, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective on September 1, 2021

Sec. 201.17. LIQUOR IN METRIC CONTAINERS. For the purpose of the taxes imposed on liquor by this subchapter, if the liquor is in

metric containers the amount of tax due is determined by converting the metric amount into the equivalent amount in gallons and applying the appropriate tax rate. The commission shall prepare tables showing the amount of tax due on various types of liquor in metric containers.

Acts 1977, 65th Leg., p. 531, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 366, eff. September 1, 2021.

Text of subchapter effective until September 1, 2021
SUBCHAPTER B. TAX ON ALE AND MALT LIQUOR

Text of section effective until September 1, 2021

Sec. 201.41. FIRST SALE. In this subchapter, "first sale" means:

(1) the first actual sale of ale or malt liquor by:

(A) the holder of a wholesaler's, general class B wholesaler's, or local class B wholesaler's permit to:

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

(ii) a local distributor permittee; or

(iii) a private club registration permittee; or

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

(2) the importation of ale or malt liquor under Section 107.07.

Acts 1977, 65th Leg., p. 531, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 2, Sec. 10, eff. Oct. 2, 1984.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. 1090), Sec. 24, eff. September 1, 2013.

Text of section effective until September 1, 2021

Sec. 201.42. TAX ON ALE AND MALT LIQUOR. A tax is imposed on

the first sale of ale and malt liquor at the rate of $0.198 per gallon.

Acts 1977, 65th Leg., p. 531, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 2, Sec. 11, eff. Oct. 2, 1984.

Text of section effective until September 1, 2021

Sec. 201.43. DUTY TO PAY TAX; DUE DATE. (a) The permittee making the taxable first sale shall pay the tax on ale and malt liquor imposed under Section 201.42 of this code.

(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(4), eff. June 14, 2013.

(d) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 1(4), eff. June 14, 2013.

(e) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 1(4), eff. June 14, 2013.

Acts 1977, 65th Leg., p. 531, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 2, Sec. 12, eff. Oct. 2, 1984.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 10.04, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 431 (S.B. 559), Sec. 1(4), eff. June 14, 2013.

Text of section effective until September 1, 2021

Sec. 201.44. TAX EXEMPTIONS. No tax may be collected on ale or malt liquor:

(1) shipped out of the state for consumption outside the state; or

(2) sold aboard a ship for ship's supplies.

Acts 1977, 65th Leg., p. 391, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 201.45. PROHIBITION OF SALE OF UNTAXED ALE OR MALT LIQUOR. No person may sell, offer for sale, or store for the purpose of sale in this state any ale or malt liquor on which the state or federal tax, if due, has not been paid.

Acts 1977, 65th Leg., p. 532, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 201.46. TAX LIABILITY. A person possessing ale or malt liquor on which the tax is delinquent is liable for the delinquent tax in addition to the criminal penalties.

Acts 1977, 65th Leg., p. 532, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 201.47. TAX REFUNDS AND CREDITS. (a) The holder of a permit authorizing the transportation of ale or malt liquor out of the state may apply to the commission for a refund of the excise tax on ale or malt liquor that has been paid on proper proof that the ale or malt liquor was sold or disposed of outside the state.

(b) Tax credits shall be allowed for overpayment or mistaken payment of the tax on ale or malt liquor, and the commission shall provide by rule for the equitable and final disposition of the tax credits.

Acts 1977, 65th Leg., p. 532, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 201.48. PAYMENT. The tax on ale and malt liquor shall be paid by a remittance payable to the comptroller and forwarded, together with any required sworn statements of taxes due, to the commission in Austin on or before the date it is due. 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. 391, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 1.04, eff. Sept. 1, 1997.

Text of section effective until September 1, 2021

Sec. 201.49. MAY REQUIRE INFORMATION. (a) The commission may require all brewers, nonresident brewers, importers, wholesalers, and class B wholesalers of ale and malt liquor to provide information as to purchases, sales, and shipments to enable the commission to collect the full amount of the tax due. No brewer, nonresident brewer, importer, wholesaler, or class B wholesaler may fail or refuse to furnish the required information.

(b) The commission may seize or withhold from sale the brewer's, nonresident brewer's, importer's, wholesaler's, or class B wholesaler's ale or malt liquor for failure or refusal to supply the information required under Subsection (a) of this section or to permit the commission to make an investigation of pertinent records, whether the records are inside or outside of this state.

Acts 1977, 65th Leg., p. 532, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 201.50. INVOICES OF TRANSPORTED LIQUOR. The holder of a permit authorizing the wholesaling of liquor and the transportation of it out of the state shall furnish to the commission duplicate copies of all invoices for the sale of liquor transported out of the state within 24 hours after the liquor has been removed from the permittee's place of business. Violation of this section is punishable by the penalty prescribed in Section 201.16 of this code.

Acts 1977, 65th Leg., p. 532, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 201.51. EVIDENCE IN SUIT. In any suit brought to enforce the collection of tax due on ale or malt liquor 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 relating to the computation and levy of the tax.

Acts 1977, 65th Leg., p. 533, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 201.52. ALE AND MALT LIQUOR IN METRIC CONTAINERS. Section 201.17 of this code applies to the taxation of ale and malt liquor in metric containers.

Acts 1977, 65th Leg., p. 533, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 201.53. SUMMARY SUSPENSION. (a) The commission may summarily suspend, without a hearing, the permit of a permittee 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 permittee or the permittee'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 permittee files all required returns and makes all required tax payments that are due.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 97, eff. Jan. 1, 1994. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995.

SUBCHAPTER C. STAMPS

Sec. 201.71. STAMPS. Unless the liquor is exempt from tax or payment has been or is to be made by a permittee in accordance with the provisions of Subchapter A or B of this chapter, the tax levied under Subchapter A or B shall be paid by affixing a stamp or stamps on each bottle or container of liquor. The stamp shall be affixed in strict accordance with the commission's rules and regulations.

Acts 1977, 65th Leg., p. 533, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 2001, 77th Leg., ch. 191, Sec. 3, eff. Sept. 1, 2001.

Text of section effective until September 1, 2021

Sec. 201.72. DUTY TO PRINT. The commission and the board of control shall have engraved or printed the liquor and beer tax stamps required by this code. The board of control shall let the contracts for the stamps required by this code as provided by law. The commission shall expend funds necessary to keep an ample supply of stamps on hand.

Acts 1977, 65th Leg., p. 533, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 367, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 201.72. DUTY TO PRINT. The commission and the board of control shall have engraved or printed the liquor and malt beverage tax stamps required by this code. The board of control shall let the contracts for the stamps required by this code as provided by law. The commission shall expend funds necessary to keep an ample supply of stamps on hand.

Acts 1977, 65th Leg., p. 533, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 367, eff. September 1, 2021.

Sec. 201.73. DESIGN. The commission shall prescribe the design

and denomination of the tax stamps. Each stamp must show the amount of tax for which it evidences payment and shall contain the words "Texas State Tax Paid."

Acts 1977, 65th Leg., p. 533, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 201.74. OPERATION OF TAX STAMP PROGRAM. (a) The commission is responsible for the custody and sale of tax stamps and for the proceeds of the sales.

(b) The commission may sell tax stamps only to a person designated by the commission.

(c) The commission may designate any state or national bank in this state as its agent to deliver and collect for any tax stamps and to remit the sale proceeds to it.

(d) Invoices for tax stamps shall be issued by the commission in duplicate and numbered consecutively. The original of the invoice shall be forwarded to the purchaser or to the person in whose care it may be sent for the benefit of a qualified purchaser. The second copy shall be kept by the commission.

(e) The commission shall keep a permanent record of all tax stamps received and sold. This record shall provide a perpetual inventory of all tax stamps and their disposition.

Acts 1977, 65th Leg., p. 533, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1995, 74th Leg., ch. 280, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.75. DELIVERY OF STAMPS. The commission shall prescribe the manner in which tax stamps are delivered to its inspectors in charge of ports of entry.

Acts 1977, 65th Leg., p. 534, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1995, 74th Leg., ch. 280, Sec. 2, eff. Sept. 1, 1995.

Sec. 201.76. REFUNDS. (a) The commission may make refunds for tax stamps in all cases where:

(1) stamped liquor is returned to the distillery or manufacturer, on certification by a duly authorized representative of the commission who inspected the shipment;

(2) stamped liquor has been destroyed, on certification by a duly authorized representative of the commission that the liquor has been destroyed;

(3) a person who has been authorized to purchase tax stamps and is in possession of unused tax stamps on discontinuation of business; and

(4) tax stamps of improper value have been erroneously affixed to a bottle or container of liquor and those tax stamps have been destroyed in a manner prescribed by the commission.

(b) To obtain a refund under this section, it must be shown that the tax stamps for which a refund is asked were purchased from the commission and that the refund is made to a person authorized to purchase tax stamps from the commission. No other refunds for tax stamps are allowed.

(c) Sufficient funds to pay refunds for tax stamps may be appropriated from the revenue derived from the sale of the tax stamps before that revenue has been allocated.

Acts 1977, 65th Leg., p. 534, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1995, 74th Leg., ch. 280, Sec. 3, eff. Sept. 1, 1995.

Sec. 201.77. WHO MAY PURCHASE STAMPS. The commission shall designate those permittees or other persons entitled to purchase state tax stamps.

Acts 1977, 65th Leg., p. 534, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 201.78. STAMPS FOR WINE. Tax stamps for wine shall be issued in multiples of the rate assessed for each pint and for each one-tenth of a gallon.

Acts 1977, 65th Leg., p. 534, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 201.79. ALTERNATIVE METHOD OF COLLECTING TAX ON WINE. The commission may provide by rule an alternative method of collecting the tax on wine. That method may dispense with the use of tax stamps.

Acts 1977, 65th Leg., p. 534, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 201.80. EXEMPTION. The commission may prescribe by order special rules for the payment of the tax imposed by Subchapter A or B of this chapter in any circumstance that in the judgment of the commission creates an emergency or makes it impractical to require the affixing of tax stamps.

Acts 1977, 65th Leg., p. 534, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 201.81. STAMPS FOR DISTILLED SPIRITS. Tax stamps for distilled spirits may be issued only in multiples of the rate assessed each half-pint, except that when distilled spirits are contained in containers of one-tenth of a gallon, tax stamps shall be issued at the assessed rate for each type of distilled spirit.

Acts 1977, 65th Leg., p. 534, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 201.82. IMPORTED DISTILLED SPIRITS; FEDERAL STAMP. A container of distilled spirits that has a federal liquor strip stamp attached or that has been imported from a foreign country is subject to taxation and must have the appropriate state tax stamp for distilled spirits affixed to it, unless it is taxed under the reporting system.

Acts 1977, 65th Leg., p. 535, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Text of chapter effective until September 1, 2021

Text of chapter effective until September 1, 2021

CHAPTER 203. BEER TAX

Text of section effective until September 1, 2021

Sec. 203.01. TAX ON BEER. A tax is imposed on the first sale of beer manufactured 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.

Text of section effective until September 1, 2021

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

(1) the first actual sale of beer:

(A) by the holder of a distributor's license or by the holder of a manufacturer's license acting under the authority of Section 62.12, 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 beer to ultimate consumers; or

(2) the importation of beer 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.

Text of section effective until 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 beer imposed under Section 203.01 of this code.

(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.

Text of section effective until September 1, 2021

Sec. 203.04. TAX ON UNSALABLE BEER. No tax imposed under Section 203.01 of this code may be imposed or collected on beer that for any reason has been found and declared to be unsalable by the commission or administrator. A manufacturer or distributor is entitled to a refund of any tax he has paid on unsalable beer.

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.

Text of section effective until September 1, 2021

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

(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 manufacturers may claim these exemptions from the tax on beer.

(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.

Text of section effective until September 1, 2021

Sec. 203.06. EXCESS TAX. A manufacturer or distributor is entitled to a refund or credit on future tax payment for any excess tax on beer 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.

Text of section effective until 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 beer tax before it is allocated may be appropriated for the payment of beer 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.

Text of section effective until September 1, 2021

Sec. 203.09. STATEMENTS. (a) The commission may require manufacturers of beer manufactured 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 beer tax due. No manufacturer, 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 beer for failure or refusal to supply the information required under Subsection (a) of this section 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.

Text of section effective until September 1, 2021

Sec. 203.10. PAYMENT OF TAXES; DISCOUNT. The tax on beer 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.

Text of section effective until September 1, 2021

Sec. 203.11. EVIDENCE IN SUIT. In a suit brought to enforce the collection of tax due on beer manufactured 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.

Text of section effective until September 1, 2021

Sec. 203.12. TAX LIABILITY. A person possessing beer 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.

Text of section effective until 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.

Text of chapter effective on September 1, 2021

Text of chapter effective on September 1, 2021

CHAPTER 203. MALT BEVERAGE TAX

Text of section effective on September 1, 2021

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.

Text of section effective on 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.

Text of section effective on 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.

Text of section effective on 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.

Text of section effective on 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.

Text of section effective on 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.

Text of section effective on 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.

Text of section effective on 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.

Text of section effective on 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.

Text of section effective on 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.

Text of section effective on 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.

Text of section effective on 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.

CHAPTER 204. BONDS

Sec. 204.01. BOND REQUIRED.

Text of subsection effective until September 1, 2021

(a) Except as otherwise provided in this section, the following licensees and permittees shall furnish a bond:

(1) those authorized to import alcoholic beverages into the state;

(2) manufacturers of beer and brewers of ale or malt liquor in the state; and

(3) all other permittees.

Text of subsection effective on September 1, 2021

(a) Except as otherwise provided in this section, the following licensees and permittees shall furnish a bond:

(1) those authorized to import alcoholic beverages into the state;

(2) brewers of malt beverages in the state; and

(3) all other permittees.

Text of subsection effective until September 1, 2021

(b) No bond is required of a holder of a mixed beverage, private club registration, carriers, local cartage, wine and beer

retailers, nonresident seller's, manufacturer's agent's, or agent's permit.

Text of subsection effective on September 1, 2021

(b) A bond is not required of a holder of a mixed beverage, private club registration, carrier, local cartage, wine and malt beverage retailer's, or nonresident seller's permit.

(c) No bond is required of a retail licensee or permittee who is not responsible for the primary payment of an alcoholic beverage excise tax to this state.

(d) The holder of a wholesaler's or class B wholesaler's permit, or the holder of a distributor's license may furnish, in lieu of all or part of the amount of the bond required:

(1) one or more certificates of deposit or savings assigned to the state, issued by one or more banks or savings institutions authorized to do business in this state; or

(2) one or more letters of credit issued by one or more banks or savings institutions authorized to do business in this state.

(e) If certificates of deposit or savings or letters of credit are furnished under Subsection (d) of this section, the administrator shall keep them in his possession. Interest earned on a certificate of deposit or savings is not subject to the assignment and remains the property of the owner of the certificate.

Text of subsection effective until September 1, 2021

(f) The holder of a wholesaler's or class B wholesaler's permit, the holder of a winery or wine bottler's permit, or the holder of a distributor's license is not required to furnish a bond if for the preceding 36 months the permittee or licensee has paid all taxes and fees required by this code on or before the due date.

Text of subsection effective on September 1, 2021

(f) The holder of a wholesaler's or class B wholesaler's permit, the holder of a winery permit, or the holder of a distributor's license is not required to furnish a bond if for the preceding 36 months the permittee or licensee has paid all taxes and fees required by this code on or before the due date.

(g) An exemption under Subsection (f) of this section terminates and the permittee or licensee must furnish a bond or tax security if the permittee or licensee fails to pay a tax or fee imposed by this code on or before the due date.

(h) A permittee or licensee required to furnish a bond or tax security under Subsection (g) of this section is again entitled to exemption from the surety requirement if the permittee or licensee:

(1) pays all delinquent taxes and fees and any applicable penalties; and

(2) pays all taxes and fees required by this code on or before the due date for 18 consecutive months after the month in which the delinquent taxes and fees and the penalties are paid.

Text of subsection effective until September 1, 2021

(i) A permittee or licensee who qualifies for an exemption under Subsection (f) of this section is also exempt from the bonding requirement for any other wholesaler's permit, class B wholesaler's permit, winery permit, wine bottler's permit, or distributor's license currently held by or subsequently issued to the same permittee or licensee for use at licensed premises different from and additional to those covered by the permit or license under which the permittee or licensee qualified for exemption. However, if a permittee or licensee fails to pay a tax or fee imposed by this code on or before the due date and the permittee or licensee holds multiple permits or licenses, the requirement for a bond or tax security shall be imposed or reimposed under Subsection (g) of this section only on the permit or license covering the licensed premises for which the tax or fee and any applicable penalty were not timely paid.

Text of subsection effective on September 1, 2021

(i) A permittee or licensee who qualifies for an exemption under Subsection (f) is also exempt from the bonding requirement for any other wholesaler's permit, class B wholesaler's permit, winery permit, or distributor's license currently held by or subsequently issued to the same permittee or licensee for use at licensed premises different from and additional to those covered by the permit or license under which the permittee or licensee qualified for exemption. However, if a permittee or licensee fails to pay a tax or fee imposed by this code on or before the due date and the permittee or licensee holds multiple permits or licenses, the requirement for a bond or tax security shall be imposed or reimposed under Subsection (g) only on the permit or license covering the licensed premises for which the tax or fee and any applicable penalty were not timely paid.

Acts 1977, 65th Leg., p. 541, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1977, 65th Leg., p. 1183, ch. 453, Sec. 11, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 732, ch. 325, Sec. 1, eff. June 6, 1979; Acts 1983, 68th Leg., p. 5053, ch. 914, Sec. 1 to 5, eff. Sept. 1, 1983; Acts 1991, 72nd Leg., ch. 436, Sec. 1, eff. June 8, 1991; Acts 1993, 73rd Leg., ch. 934, Sec. 99, eff. Jan. 1, 1994; Acts 1999, 76th Leg., ch. 584, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 380, eff. September 1, 2021.

Sec. 204.02. FORM AND CONDITIONS. (a) A bond required under this chapter must be executed with the permittee or licensee as principal, a qualified surety company doing business in this state as surety, and the state as payee. All bonds of permittees must be payable in Travis County.

(b) The bond must be conditioned as required by the commission. Bonds required of permittees must be conditioned that as long as the applicant holds the permit he will not violate any law of this state relating to the traffic in or transportation, sale, or delivery of liquor or any valid rule of the commission. The bonds of permittees who are required to account for taxes and fees must also be conditioned that the permittee will account for and pay all permit fees and taxes levied by this code.

(c) The form of all bonds must be approved by the attorney general.

(d), (e) Repealed by Acts 1993, 73rd Leg., ch. 934, Sec. 110, eff. Jan. 1, 1994.

Acts 1977, 65th Leg., p. 541, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1977, 65th Leg., p. 1184, ch. 453, Sec. 12, eff. Sept. 1, 1977; Acts 1993, 73rd Leg., ch. 934, Sec. 110, eff. Jan. 1, 1994.

Sec. 204.03. AMOUNT OF BOND. (a) The commission or administrator shall set the amount of all bonds required under this chapter.

(b) Repealed by Acts 1993, 73rd Leg., ch. 934, Sec. 110, eff. Jan. 1, 1994.

(c) Bonds of other permittees, except those permittees covered by Subsection (d) of this section, may not be set at an amount less than $1,000 or more than $25,000.

Text of subsection effective until September 1, 2021

(d) Bonds, letters of credit, or certificates of deposit to insure the payment of the tax on distilled spirits imposed by Section 201.03 of this code, the tax on vinous liquor imposed by Section 201.04 of this code, the tax on ale and malt liquor imposed by Section 201.42 of this code, or the tax on beer imposed by Section 203.01 of this code, shall be set at an amount that will protect the state against the anticipated tax liability of the principal for any six-week period.

Text of subsection effective on September 1, 2021

(d) Bonds, letters of credit, or certificates of deposit to insure the payment of the tax on distilled spirits imposed by Section 201.03, the tax on vinous liquor imposed by Section 201.04, or the tax on malt beverages imposed by Section 203.01, shall be set at an amount that will protect the state against the anticipated tax liability of the principal for any six-week period.

Acts 1977, 65th Leg., p. 541, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 1184, ch. 453, Sec. 13, eff. Sept. 1, 1977; Acts 1993, 73rd Leg., ch. 934, Sec. 100, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 934, Sec. 110, eff. Jan. 1, 1994. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 381, eff. September 1, 2021.

Sec. 204.04. MULTIPLE PERMITS, ONE BOND. If another permit is required, incidental to the operation of a business for which a basic permit is procured, the commission may accept one bond to support all of the permits. The commission shall determine the amount of the bond.

Acts 1977, 65th Leg., p. 542, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 204.05. CANCELLATION OF BOND. The commission may not cancel a surety bond until the surety company has paid and discharged

in full all of its liabilities on the bond to the state as of the date of cancellation.

Acts 1977, 65th Leg., p. 542, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 204.07. WAIVER OF BOND REQUIREMENT. The commission may waive the requirement that a licensee or permittee furnish a bond under this chapter if the commission by rule determines the submission of the bond is no longer necessary.

Added by Acts 2001, 77th Leg., ch. 751, Sec. 1, eff. Sept. 1, 2001.

CHAPTER 205. REVENUE ALLOCATION

Sec. 205.02. DISPOSITION OF RECEIPTS.

Text of (a) as amended by Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. II, part B, Sec. 12

(a) After allocation of funds to defray administrative expenses as provided in the current departmental appropriations act, receipts from the sale of tax stamps and funds derived from taxes on distilled spirits, wine, beer, and ale and malt liquor shall be deposited in the general revenue fund. An amount equal to one-fourth of the net revenue shall be transferred to the foundation school fund, and an amount equal to three-fourths of the net revenue shall be credited to the general revenue fund.

Text of (a) as amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 2, Sec. 22

(a) After allocation of funds to defray administrative expenses as provided in the current departmental appropriations act, receipts from the sale of tax stamps and funds derived from taxes on distilled spirits, wine, beer, and ale and malt liquor shall be deposited in the general revenue fund. An amount equal to 5/24ths of the net revenue shall be transferred to the available school fund, an amount equal to 1/24th of the net revenue shall be transferred to the foundation school fund, and an amount equal to three-fourths of the net revenue shall be credited to the general revenue fund.

(b) All revenues derived from the collection of permit or license fees provided for in this code, except fees for temporary

licenses, shall be deposited to the credit of the general revenue fund.

(c), (d) Repealed by Acts 1993, 73rd Leg., ch. 934, Sec. 110, eff. Jan. 1, 1994.

Acts 1977, 65th Leg., p. 542, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2254, ch. 540, Sec. 13, eff. Sept. 1, 1981; Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. II, part B, Sec. 12, eff. Sept. 1, 1984; Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 2, Sec. 22, eff. Oct. 2, 1984; Acts 1985, 69th Leg., ch. 94, Sec. 1, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 934, Sec. 110, eff. Jan. 1, 1994.

For expiration of Section 205.03, see Subsection (p).

Sec. 205.03. EXCEPTION FOR CERTAIN WINE-RELATED REVENUE. (a) Repealed by Acts 2015, 84th Leg., R.S., Ch. 847 , Sec. 2, eff. September 1, 2015.

(b) Notwithstanding Section 205.02, the following revenue may be appropriated for each state fiscal year only as specified by this section:

(1) the lesser of:

(A) the amount, if any, by which the amount of revenue derived from excise taxes on wine produced in a state other than Texas and any sales taxes collected from holders of out-of-state winery direct shipper's permits as a result of the passage of Senate Bill No. 877 by the 79th Legislature, Regular Session, 2005, according to the most recent projection, as of the beginning of the fiscal year, by the comptroller for the fiscal year exceeds the amount of revenue from those sources for fiscal year 2014, compounded annually for fiscal years 2015-2025 by the average percentage by which revenue from those sources increased from one fiscal year to the next between September 1, 2005, and August 31, 2013; or

(B) $1 million; and

(2) the lesser of:

(A) the amount, if any, by which revenue derived from excise taxes on wine produced in this state and sales taxes remitted by holders of winery permits in this state, according to the most recent projection, as of the beginning of the fiscal year, by the comptroller for the fiscal year exceeds the amount of revenue from

those sources for fiscal year 2014, compounded annually for fiscal years 2015-2025 by the average percentage by which revenue from those sources increased from one fiscal year to the next between September 1, 2005, and August 31, 2013; or

(B) $1 million.

(c) Out of the amounts available under Subsections (b)(1) and (2) for a fiscal year, the lesser of $830,000 or the total amount available under those subdivisions may be appropriated only to Texas A&M AgriLife Extension Service.

(d) If the amount available for a fiscal year under Subsections (b)(1) and (2) exceeds $830,000, the lesser of $365,000 or the total amount available under those subdivisions may be appropriated only to the Texas Tech University Viticulture and Enology program.

(e) If the amount available for a fiscal year under Subsections (b)(1) and (2) exceeds $1,195,000, the lesser of the amount remaining under Subsection (b)(2) or $150,000 may be appropriated only to the Texas Wine Marketing Research Institute at Texas Tech University.

(f) Repealed by Acts 2015, 84th Leg., R.S., Ch. 847 , Sec. 2, eff. September 1, 2015.

(g) Repealed by Acts 2015, 84th Leg., R.S., Ch. 847 , Sec. 2, eff. September 1, 2015.

(h) Repealed by Acts 2015, 84th Leg., R.S., Ch. 847 , Sec. 2, eff. September 1, 2015.

(i) Repealed by Acts 2015, 84th Leg., R.S., Ch. 847 , Sec. 2, eff. September 1, 2015.

(j) If the amount available for a fiscal year under Subsections (b)(1) and (2) exceeds the maximum amount that may be appropriated under Subsections (c), (d), and (e), the lesser of the amount remaining under Subsections (b)(1) and (2) or $150,000 may be appropriated only for distribution to the T. V. Munson Viticulture and Enology Center of the Grayson County Junior College District to fund educational programs at the center.

(k) Repealed by Acts 2015, 84th Leg., R.S., Ch. 847 , Sec. 2, eff. September 1, 2015.

(l) Repealed by Acts 2015, 84th Leg., R.S., Ch. 847 , Sec. 2, eff. September 1, 2015.

(m) Repealed by Acts 2015, 84th Leg., R.S., Ch. 847 , Sec. 2, eff. September 1, 2015.

(n) If revenue derived under Subsection (b)(2) is not otherwise appropriated under this section, the lesser of that remaining revenue

or $300,000 may be appropriated only for deposit into the wine industry development fund:

(1) for the development of technologies, strategies, and practices for mitigating or eliminating the effects of frost, pestilence, or infestation on grapevines for which money donated from private sources under Chapter 50B, Agriculture Code, is also spent; and

(2) in an amount that does not exceed the amount of the donated money described by Subdivision (1) that is spent for the same purposes.

(n-1) Any revenue available for a fiscal year under Subsection (b) that is not otherwise appropriated as authorized by this section may be appropriated only to the Department of Agriculture for deposit into the wine industry development fund for:

(1) the development of technologies, strategies, and practices for mitigating or eliminating the effects of frost, pestilence, or infestation on grapevines; and

(2) the department's direct and indirect costs associated with administering programs under Subsection (n) or Subdivision (1) of this subsection.

(o) Repealed by Acts 2015, 84th Leg., R.S., Ch. 847 , Sec. 2, eff. September 1, 2015.

(p) This section expires September 1, 2025.

Added by Acts 2005, 79th Leg., Ch. 375 (S.B. 1370), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 846 (S.B. 880), Sec. 5, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 847 (S.B. 881), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 847 (S.B. 881), Sec. 2, eff. September 1, 2015.

CHAPTER 206. PROVISIONS GENERALLY APPLICABLE TO TAXATION

Sec. 206.01. RECORDS. (a) A permittee who distills, rectifies, manufactures, or receives any liquor shall make and keep a record of each day's production or receipt of liquor and the amount of tax stamps purchased by the permittee. A permittee other than a

retailer shall make and keep a record of each sale of liquor and to whom the sale is made. Each transaction shall be entered on the day it occurs. Permittees shall make and keep any other records required by the commission. All required records shall be kept available for inspection by the commission or its authorized representatives for at least four years. All required records may be retained in electronic or microfiche formats and may be retained on or off the premises of the permittee, consistent with the requirements of this section.

(b) No person may fail or refuse to make and retain for at least four years any record required by this section.

(c) No person may fail or refuse to keep any record required by this section open for inspection by the commission or its duly authorized representatives during reasonable office hours.

(d) No person may knowingly, with intent to defraud, make or cause to be made any false entry in any record required by this section or with like intent, alter or cause to be altered any item in one of those records.

Acts 1977, 65th Leg., p. 543, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1993, 73rd Leg., ch. 934, Sec. 102, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 626, Sec. 1, eff. Sept. 1, 2001.

Sec. 206.02. PROOF OF TAXES DUE. In a suit or claim by the attorney general for taxes due, he may attach or file as an exhibit a report or audit of a permittee or licensee with an affidavit made by the administrator or his representative stating that the taxes shown to be due by the report or audit are past due and unpaid and that all payments and credits have been allowed. Unless the opposing party files an answer in the same form and manner as required by Rule 185, Texas Rules of Civil Procedure, the audit or report constitutes prima facie evidence of the taxes due. The provisions of Rule 185 are applicable to a suit to collect taxes under this section.

Acts 1977, 65th Leg., p. 544, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 206.03. IMPORTATION WITHOUT TAX STAMP. A person commits an offense if he imports or transports liquor into this state without the proper state tax stamps affixed to the containers if the liquor is consigned to, intended for delivery to, or being transported to a

person or place inside this state unless the liquor is consigned to a holder of a permit authorizing the importation of liquor.

Acts 1977, 65th Leg., p. 544, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 206.04. JURISDICTION CEDED TO FEDERAL GOVERNMENT. (a) No person may transport or ship or cause to be transported or shipped any alcoholic beverage into any area in this state in which the state has ceded police jurisdiction to the federal government or any of its agencies unless the containers or packages holding those alcoholic beverages have a Texas tax stamp affixed if required by this code.

(b) Common carriers are not required to see that tax stamps are affixed.

Acts 1977, 65th Leg., p. 544, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 206.05. UNMUTILATED STAMPS. No person may possess, buy, sell, or offer to buy or sell any empty carton, case, package, keg, barrel, bottle, or any other kind of alcoholic beverage container on which the state tax stamps have not been mutilated or defaced.

Acts 1977, 65th Leg., p. 544, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 206.06. FORGERY OR COUNTERFEITING. (a) In this section, "counterfeit" or "forged" means printed, manufactured or made by, or under the direction of, or issued, sold, or circulated by a person not authorized to do so under the provisions of this code.

(b) No person may forge or counterfeit a stamp provided for in this code or print, engrave, make, issue, sell, circulate, or possess with intent to use, sell, circulate, or pass a forged or counterfeit stamp or place or cause to be placed any forged or counterfeit stamp on any container of alcoholic beverage.

(c) No person may print, engrave, make, issue, sell, or circulate with intent to defraud or knowingly possess a forged or counterfeit permit, license, official signature, certificate, evidence of tax payment, or other instrument.

(d) No person may possess a stamp or a part of a stamp, die, plate, device, machine, or other instrument used or designed for use

for forging or counterfeiting any instrument named in Subsection (b) or (c) of this section.

(e) Conviction for an offense defined in this section may be had on the uncorroborated evidence of an accomplice. A court, officer, or tribunal having jurisdiction of an offense defined in this section or any district or county attorney may subpoena any person and compel his attendance as a witness to testify as to the violation of any provision of this section. Any person so summoned and examined is immune from prosecution for the violation of any provision of this section about which he may testify.

(f) A person who violates any provision of this section commits a felony punishable by imprisonment in the Texas Department of Criminal Justice for not less than 2 nor more than 20 years.

Acts 1977, 65th Leg., p. 544, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.009, eff. September 1, 2009.

Sec. 206.07. PAYMENT OF TAX BY MAIL. (a) The payment of any tax imposed by this code is timely made if not later than the date on which payment is due the tax is mailed to the commission in an envelope with the proper address and postage and is received by the commission not later than the 10th day after the date on which it was due.

(b) A legible postmark made by the United States Postal Service is prima facie evidence of the date of mailing.

Added by Acts 1979, 66th Leg., p. 1965, ch. 777, Sec. 1, eff. Aug. 27, 1979.

Sec. 206.08. COORDINATION OF AUDITS. (a) Before the commission makes a demand to a licensee or permittee for any taxes due, as established by an audit, the commission shall:

(1) hold an informal conference with the licensee or permittee to discuss the audit and the rights of the permittee or licensee to both an informal and formal appeal of the taxes due;

(2) review the audit in the commission headquarters with the office of quality control to ensure that the uniform application

of audit standards has been applied in all aspects to the audit; and

(3) send a certified letter stating the amount of taxes owed by the licensee or permittee, the amount of the delinquency, and the proper procedure to appeal the decision.

(b) The commission shall annually update and review all audit manuals to ensure compliance with national audit standards and impartiality and provide audit training to auditors responsible for auditing tax accounts. The commission may expend funds necessary to ensure adequate training of commission auditors or trainers to provide the standardization of audits throughout the state.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 103, eff. Sept. 1, 1993.

Sec. 206.09. CONTESTS OF TAXABLE AMOUNTS OWED. (a) A licensee or permittee contesting the amount of taxes owed, after receiving a demand for payment of taxes due from the commission, is entitled to a hearing under Chapter 2001, Government Code.

(b) An appeal from a final order issued by the commission must be filed in Travis County.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 103, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995.

TITLE 6. LOCAL OPTION ELECTIONS
CHAPTER 251. LOCAL OPTION STATUS
SUBCHAPTER D. MISCELLANEOUS LOCAL OPTION PROVISIONS

Sec. 251.71. WET AND DRY AREAS. (a) An area is a "dry area" as to an alcoholic beverage of a particular type and alcohol content if the sale of that beverage is unlawful in the area. An area is a "wet area" as to an alcoholic beverage of a particular type and alcoholic content if the sale of that beverage is lawful in the area.

(b) Those areas that are wet or dry when this code takes effect retain that status until the status of the area is changed as provided in this code.

(c) All trial courts of this state shall take judicial notice of the wet or dry status of an area in a criminal prosecution.

(d) In an information, complaint, or indictment, an allegation that an area is a dry area as to a particular type of alcoholic

beverage is sufficient, but a different status of the area may be urged and proved as a defense.

(e) For purposes of this code:

(1) a reference to a local option election means an election held under Chapter 501, Election Code; and

(2) a local option election held under Chapter 501, Election Code, is considered to have been held under this code.

Acts 1977, 65th Leg., p. 555, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 3, eff. September 1, 2005.

Sec. 251.72. CHANGE OF STATUS. Except as provided in Sections 251.725, 251.726, 251.73, and 251.80, an authorized voting unit that has exercised or may exercise the right of local option retains the status adopted, whether absolute prohibition or legalization of the sale of alcoholic beverages of one or more of the various types and alcoholic contents on which an issue may be submitted under the terms of Section 501.035, Election Code, until that status is changed by a subsequent local option election in the same authorized voting unit.

Acts 1977, 65th Leg., p. 555, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 4, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 1298 (H.B. 2818), Sec. 4, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 241 (S.B. 680), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 463 (H.B. 2735), Sec. 1, eff. June 15, 2015.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.002(1), eff. September 1, 2017.

Sec. 251.725. CHANGE OF STATUS FOR CERTAIN TERRITORY ANNEXED BY MUNICIPALITY.

Text of subsection effective until September 1, 2021

(a) This section applies only to a municipality whose local option status allows for the legal sale of beer and wine for off-premise consumption only as a result of a local option election on the applicable ballot issue held on or after January 1, 1985.

Text of subsection effective on September 1, 2021

(a) This section applies only to a municipality whose local option status allows for the legal sale of malt beverages and wine for off-premise consumption only as a result of a local option election on the applicable ballot issue held on or after January 1, 1985.

Text of subsection effective until September 1, 2021

(b) The governing body of a municipality described by Subsection (a) may adopt an ordinance authorizing the sale of beer and wine for off-premise consumption in an area annexed by the municipality after that election if at the time the ordinance is adopted:

(1) the annexed area is not more than one percent of the total area covered by the municipality;

(2) all of the land in the annexed area is zoned for commercial use only; and

(3) the annexed area is not adjacent to residential, church, or school property.

Text of subsection effective on September 1, 2021

(b) The governing body of a municipality described by Subsection (a) may adopt an ordinance authorizing the sale of malt beverages and wine for off-premise consumption in an area annexed by the municipality after that election if at the time the ordinance is adopted:

(1) the annexed area is not more than one percent of the total area covered by the municipality;

(2) all of the land in the annexed area is zoned for commercial use only; and

(3) the annexed area is not adjacent to residential, church, or school property.

Added by Acts 2015, 84th Leg., R.S., Ch. 463 (H.B. 2735), Sec. 2, eff. June 15, 2015.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 382, eff.

September 1, 2021.

Sec. 251.726. CHANGE OF STATUS FOR TERRITORY ANNEXED OR OWNED BY CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality that has within its boundaries all or part of an international airport operated jointly by two municipalities and:

(1) that is:

(A) partially located in three counties, two of which have a population of 1.8 million or more; and

(B) primarily located in a county with a population of 1.8 million or more; or

(2) that:

(A) is partially located in five counties, one of which:

(i) has a population of 1.8 million or more; and

(ii) is adjacent to a county with a population of 2.2 million or more;

(B) is subject to a limited purpose annexation and development agreement under Subchapter G, Chapter 212, Local Government Code; and

(C) may annex an area on request of the owners of land in the area under Subchapter C-3, Chapter 43, Local Government Code.

(b) Notwithstanding any other law:

(1) an area annexed to a municipality to which this section applies assumes the wet or dry status of that municipality; and

(2) an area contiguous to and owned by a municipality to which this section applies assumes the wet or dry status of that municipality.

Added by Acts 2015, 84th Leg., R.S., Ch. 241 (S.B. 680), Sec. 2, eff. September 1, 2015.
Redesignated from Alcoholic Beverage Code, Section 251.725 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(1), eff. September 1, 2017.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 302 (H.B. 4456), Sec. 1, eff. September 1, 2019.

Sec. 251.73. PREVAILING STATUS: RESOLUTION OF CONFLICTS. To insure that each voter has the maximum possible control over the status of the sale of alcoholic beverages in the area where he resides:

(1) the status that resulted from or is the result of a duly called election for an incorporated city or town prevails against the status that resulted from or is the result of a duly called election in a justice precinct or county in which the incorporated city or town, or any part of it is contained; and

(2) the status that resulted or is the result of a duly called election for a justice precinct prevails against the status that resulted from or is the result of a duly called election in an incorporated city or town in which the justice precinct is wholly contained or in a county in which the justice precinct is located.

Acts 1977, 65th Leg., p. 555, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 251.74. AIRPORT AND STADIUM AS WET AREAS. (a) This section applies to any county:

(1) that has a population of more than 240,000, according to the most recent federal census;

(2) in which the sale of all alcoholic beverages has been legalized in all or any part of the county; and

(3) where, at the general election on November 3, 1970, the voters approved the constitutional amendment authorizing the sale of mixed beverages on a local option basis.

(b) In a county covered by this section, the commissioners court may designate as an area wet for the sale of mixed beverages only:

(1) the area encompassed by the building structure of a professional sports stadium, used wholly or partly for professional sporting events and having a seating capacity of at least 40,000, and not more than 125 acres of adjacent land used for the benefit of the stadium, regardless of ownership of the land, if no registered voters reside there; and

(2) the area encompassed by a regional airport.

(c) The order of the commissioners court authorizes the issuance of a mixed beverage permit.

Acts 1977, 65th Leg., p. 555, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1983, 68th Leg., p. 1324, ch. 276, Sec. 1, eff. Aug. 29, 1983.

Sec. 251.741. CERTAIN AIRPORTS AS WET AREAS. In addition to those areas declared wet by order of the commissioners court under the authority of Section 251.74 of this code, in a county with a population of more than 175,000 according to the most recent federal census where the sale of mixed beverages only is legalized in the most populous city in the county by a local option election held after May 18, 1971, the area actually encompassed by any municipal airport under the jurisdiction of that city is wet for the sale of mixed beverages only. Subsequent local option elections held by that city do not affect the local option status of the airport unless the result of the election prohibits the sale of mixed beverages, in which case the provisions of this section do not apply.

Added by Acts 1977, 65th Leg., p. 1184, ch. 453, Sec. 14, eff. Sept. 1, 1977.

Text of section effective until September 1, 2021

Sec. 251.75. CONTINUANCE OF OPERATION AS MANUFACTURER OR BREWER. Notwithstanding any other provision of this code, if the sale of beer or ale is prohibited in an area by a local option election, a holder of a manufacturer's license or brewer's permit that was issued prior to the election may not be denied an original or renewal manufacturer's license or brewer's permit for the same location on the ground that the local option status of the area prohibits the sale of beer or ale. Except for the right to sell beer or ale contrary to the local option status of the area, the licensee or permittee may engage in all activities authorized by the license or permit, including the manufacturing, brewing, possessing, storing, and packaging of beer or ale, and transporting it to an area where its sale is legal. The licensee or permittee may deliver beer or ale at his licensed premises to a purchaser from outside the state, an authorized carrier, distributor, or class B wholesaler. The purchaser, carrier, distributor, or class B wholesaler may not receive the beer or ale for transportation unless there has first been an order, acceptance, and payment or legal satisfaction of

payment in an area where the sale of beer or ale is legal.

Acts 1977, 65th Leg., p. 556, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 383, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 251.75. CONTINUANCE OF OPERATION AS BREWER. Notwithstanding any other provision of this code, if the sale of malt beverages is prohibited in an area by a local option election, a holder of a brewer's license that was issued prior to the election may not be denied an original or renewal brewer's license for the same location on the ground that the local option status of the area prohibits the sale of malt beverages. Except for the right to sell malt beverages contrary to the local option status of the area, the licensee may engage in all activities authorized by the license, including the brewing, possessing, storing, and packaging of malt beverages, and transporting the malt beverages to an area where the sale of malt beverages is legal. The licensee may deliver malt beverages at the licensee's premises to a purchaser from outside the state, an authorized carrier, or distributor. The purchaser, carrier, or distributor may not receive the malt beverages for transportation unless there has first been an order, acceptance, and payment or legal satisfaction of payment in an area where the sale of malt beverages is legal.

Acts 1977, 65th Leg., p. 556, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 383, eff. September 1, 2021.

Sec. 251.76. CONTINUANCE OF OPERATION AS DISTILLER AND RECTIFIER. Notwithstanding any other provision of this code, a person who has been issued a distiller's and rectifier's permit may not subsequently be denied an original or renewal distiller's and rectifier's permit for the same location on the ground that the sale of distilled spirits has been prohibited in the area by a local

option election. A person holding a permit at the time of the election or issued a permit under this section may exercise all privileges granted by this code to the holder of a distiller's and rectifier's permit, including the manufacturing, possessing, storing, packaging, and bottling of distilled spirits and the transportation of them to areas in which their sale is legal.

Acts 1977, 65th Leg., p. 556, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 1354, ch. 278, Sec. 58, eff. Sept. 1, 1983.

Text of section effective until September 1, 2021

Sec. 251.77. CONTINUANCE OF OPERATION AS DISTRIBUTOR. (a) Notwithstanding any other provision of this code, if the sale of beer is prohibited by local option election, a licensed distributor of beer whose warehouse or other facilities used in connection with the distributorship are located in the area affected, has the right to continue to operate as a distributor in that area and maintain the necessary premises and facilities for distribution. The distributor continues to enjoy all the rights and privileges incident to distributorship, including the right to possess, store, warehouse, and sell beer in that area, and deliver beer into and out of that area.

(b) A distributor in the area affected may sell or deliver beer only to licensed outlets located where the sale of beer is legal.

Acts 1977, 65th Leg., p. 556, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 384, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 251.77. CONTINUANCE OF OPERATION AS DISTRIBUTOR. (a) Notwithstanding any other provision of this code, if the sale of malt beverages is prohibited by local option election, a licensed distributor of malt beverages whose warehouse or other facilities used in connection with the distributorship are located in the area affected, has the right to continue to operate as a distributor in

that area and maintain the necessary premises and facilities for distribution. The distributor continues to enjoy all the rights and privileges incident to distributorship, including the right to possess, store, warehouse, and sell malt beverages in that area, and deliver malt beverages into and out of that area.

(b) A distributor in the area affected may sell or deliver malt beverages only to licensed outlets located where the sale of malt beverages is legal.

Acts 1977, 65th Leg., p. 556, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 384, eff. September 1, 2021.

Sec. 251.78. CONTINUANCE OF OPERATION AS WHOLESALER. (a) Notwithstanding any other provision of this code, if the sale of the type or types of liquor authorized to be sold by the holder of a wholesaler's permit whose warehouse or other facility used in connection with the wholesale operation is prohibited in an area by local option election, the holder of the wholesaler's permit shall have the right to continue to operate as a wholesaler in that area and maintain the necessary premises and facilities for the wholesale operation. The wholesaler shall enjoy all the rights and privileges incident to the permit, including the right to possess, store, warehouse, sell, deliver, and receive liquor.

(b) A wholesaler in the area affected may only sell or deliver liquor to permittees located where the sale of liquor is legal.

Acts 1977, 65th Leg., p. 556, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 251.79. AREAS IN WHICH CERTAIN PERMITS AND LICENSES MAY BE ISSUED. Notwithstanding any other provision of this code, a wholesaler's permit, general class B wholesaler's permit, or general or branch distributor's license may be issued and licensed premises maintained in any area where the sale of any alcoholic beverage is legal. A person issued a permit or license under this section may exercise all rights and privileges of other permittees and licensees of the same class.

Acts 1977, 65th Leg., p. 557, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 385, eff. September 1, 2019.

Sec. 251.80. CHANGE IN PRECINCT BOUNDARIES. (a) A local option election held in a justice precinct shall be held in the territory comprising the justice precinct at the time the election is held. If a justice precinct has established a local option status as a result of a previous local option election in the justice precinct, such status shall remain in effect until the status is changed as the result of a subsequent local option election in the precinct. If the boundaries of the justice precinct have changed since such status was established, a subsequent local option election will only change the local option status in the territory that is part of the justice precinct on the date of the subsequent local option election.

(a-1) For purposes of a local option election, a newly created justice precinct shall be considered to have not held a local option election on the sale of alcoholic beverages. Any local option status established in the territory comprising the new justice precinct that resulted from a local option election held in the territory when the territory was part of another justice precinct remains in effect until that status is changed by a local option election held in the new justice precinct.

(b) Nothing in this section is intended to affect the operation of Section 251.73 of this code.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1298, Sec. 6, eff. September 1, 2013.

Added by Acts 1989, 71st Leg., ch. 435, Sec. 2, eff. Sept. 1, 1989.
Amended by:

Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 5, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 1298 (H.B. 2818), Sec. 5, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1298 (H.B. 2818), Sec. 6, eff. September 1, 2013.

Sec. 251.81. SALE OF WINE. (a) If the sale of wine was approved in an area by a local option election, other than a local option election that approved the sale of all alcoholic beverages, before September 1, 1999, an alcoholic beverage license or permit holder may not sell in that area wine containing more than 14 percent alcohol by volume unless a subsequent local option election approves the sale of wine or wine and other alcoholic beverages.

(b) The commission shall, on the face of each alcoholic beverage license or permit, indicate whether the holder may sell wine and, if the license or permit holder may sell wine, whether the holder may sell wine up to 14 percent alcohol or 17 percent alcohol by volume.

Added by Acts 1999, 76th Leg., ch. 418, Sec. 8, eff. Sept. 1, 1999.

Text of section effective on September 1, 2021

Sec. 251.811. SALE OF MALT BEVERAGES. (a) If before September 1, 2021, the sale of beer was approved in an area by a local option election that approved the sale of beer only, an alcoholic beverage license or permit holder may not sell in that area malt beverages containing more than five percent alcohol by volume unless a subsequent local option election approves the sale of malt beverages or malt beverages and other alcoholic beverages.

(b) The commission shall, on the face of each retail license, indicate whether the holder may only sell malt beverages that do not exceed five percent alcohol by volume.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 386, eff. September 1, 2021.

Sec. 251.82. ELECTION IN CERTAIN CITIES AND TOWNS. For the purposes of an election conducted under Section 501.109, Election Code, a reference in this code:

(1) to the county is considered to refer to the city or town;

(2) to the commissioners court is considered to refer to the governing body of the city or town;

(3) to the county clerk or registrar of voters is

considered to refer to the secretary of the city or town or, if the city or town does not have a secretary, to the person performing the functions of a secretary of the city or town; and

(4) to the county judge is considered to refer to the mayor of the city or town or, if the city or town does not have a mayor, to the presiding officer of the governing body of the city or town.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 6, eff. September 1, 2005.