

# TABC TODAY



Vol. 5, No. 2

Serving the State of Texas Since 1935....

October 2002

## STEEN NAMED CHAIR; SELIGER JOINS BOARD



Pictured (L to R): Commissioner Gail Madden, Dallas, Governor Rick Perry, Chairman John T. Steen, Jr., San Antonio and Commissioner Kel Seliger, Jr., Amarillo during a swearing in ceremony at the Capitol. During the ceremony, Governor Perry and the board members took time to honor outgoing Chairman Allan Shivers, Jr. for his many years of loyal service to the TABC and the citizens of Texas.

**K**el Seliger, Jr. of Amarillo has been appointed to a six-year term on the Texas Alcoholic Beverage Commission. Commissioner John T. Steen, Jr. of San Antonio has been designated as the new Chairman, replacing Allan Shivers, Jr. who had served as Chairman of the TABC since December 1995.

Seliger is the executive vice president of Lake Steel, Inc. He is a member of the Community and Economic Development Committee of the U.S. Conference of Mayors, Attorney General's Municipal Advisory Committee and chair of the Texas Municipal League's Legislative Committee on Community Development. A former Amarillo mayor, Seliger holds a B.A. degree from

Dartmouth College. Commissioner Seliger and his wife, Nancy, are the parents of two children, Mathew and Jonathan.

A member and fellow of the San Antonio Bar Association and the Texas Bar Association, Chairman John T. Steen, Jr. is an attorney in private practice. He is a member of the advisory council of San Antonio Academy, the development board of the University of Texas at San Antonio and the board of directors of the Charity Ball Association. He serves as the director of the World Affairs Council of San Antonio and a commissioner of the Fiesta San Antonio Commission. Chairman Steen holds an undergraduate degree from Princeton University and a J.D. degree from The University of Texas at Austin. He and his wife, Ida Louise (Weisie) have three children, James, John III and Ida Louise. ♦

## WEB SITE GETS A FACE-LIFT

**M**any of you may have not noticed but our menu selection has changed. Some of the newest items are "TABC Proposed Rules" and "Press Releases." These items are located under Legal Information and Public Information, respectfully.

All proposed rules being considered by the TABC are now available online. Viewing and submitting public comments on these proposed rules can now be done electronically. If you have any questions or comments regarding any proposed rule, you may send an e-mail to [l.bright@tabc.state.tx.us](mailto:l.bright@tabc.state.tx.us).

The press release web page was created to distribute news to the public and news media about the Texas Alcoholic Beverage Commission. The releases are published on an as-issued basis. If you have any questions

or comments regarding any news release, you may send an e-mail to [questions@tabc.state.tx.us](mailto:questions@tabc.state.tx.us).

Another area that has changed is our Enforcement Efforts menu. You will find newer items like Marketing Practices, Operation Fake Out, and Retailer & Wholesaler Education. Many of the other pages have also been improved with newer content and graphics.

And, if you have not seen our new Online Customer Satisfaction Survey, please do so! Your feedback is always important to us! ♦



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## NEW Surcharges Effective 9-1-02

Each year the agency must ensure that permit fees and surcharges generate revenue to match the agency budget and indirect costs as set by the Legislature. As in the past, there were new surcharges effective September 1, 2002. What this means is that permits or licenses with an issue date of 9-1-02 will be subject to the higher fees. You will notice the fees are raised substantially from prior years. The agency anticipates this amount will not have to be changed for several years.

As you receive your application for renewal, the new surcharge amount will be printed on the face of the application itself. So as not to delay the printing of your renewal permit, please ensure you pay the fee indicated. ♦



Just a click away!

## THEY'RE AVAILABLE ONLINE!

Ordering liquor identification stamps just became easier. Local distributors can now order stamps directly through the TABC web site.

TABC employees Mary Baldeschwiler and Steve Carlson of the Compliance Department developed the idea to improve efficiency.

"In our continuing effort to provide outstanding customer service to the citizens of Texas, we have created a way to accept online orders that will provide faster delivery of liquor identification stamps to our customers," said Carlson, Compliance supervisor.

Regular mail may take up to 10 days to deliver orders to TABC and back to the customer, Baldeschwiler noted. The new service meets customer needs for better service. "Several local distributors have already placed their orders and are elated with the faster turnaround," she said.

To order online:

1. access the TABC web site at [www.tabc.state.tx.us](http://www.tabc.state.tx.us)
2. click on the *Licensing/Compliance Services* button
3. click on the *Order ID Stamps* menu option
4. follow instructions on the order form

Reminders:

- Before ordering, you must have an active Local Distributor's Permit (LP). Attempting to order stamps without this permit is a violation of the TABC Code, Sec. 28.15(c).
- Orders placed through the web site will be shipped to the package store location address.

**NOTE:** If you want the stamps mailed to an address different from the package store location, place your order by mail using the Form C-7 as you currently do, or fax stamp orders to (512) 206-3228 or (512) 206-3349.

If you have questions, contact Mary Baldeschwiler at (512) 206-3306. ♦

## Administrator's Corner



It's a time for change at our agency. Mike Rogers. Caroline Simmons. Gabriel Quiroga. Frank Westerfield. Tomas Ochoa. Don Likens. Brent Lee. Clay Winder. Allen Johnson. Steve Boyer. Don Mitchel. Juan Villarreal. Dan Hoover. Alan Draper. Billy Horan. David Ball. Randy Yarbrough. James Martin. Mannon Mints. William Hall. Randy Norwood. Most of you have never heard of these people. Yet, combined they represent more than 500 years of professional experience, knowledge, skills and abilities. They represent untiring service to the State of Texas and our agency.

During the course of the past year, these individuals retired from our agency. While we have been able to re-

hire some of these employees into different positions, most have moved on to a new chapter in their lives. It is fitting that I take this opportunity to thank these public servants for their hard work and years of service.

In the meantime, the departure of all of these employees signals a time of change. We start the new fiscal year with new people in key positions throughout the agency. It is an exciting time for them and for the agency as a whole as we embrace the inevitability of change and the opportunities that lie ahead.

I hope you will take the time to visit with some of our new supervisors in your part of the state. I'm sure they welcome the opportunity to get to know you and establish a sound working relationship. ♦

Rofando Quiroga

## UPDATED Retailer's Guide



The new and updated *Alcoholic Beverage Retailer's Guide - What Every Alcoholic Beverage Retailer Should Know* is finally available!! You may obtain a copy by contacting your local TABC office or by downloading it from our web site at [www.tabc.state.tx.us](http://www.tabc.state.tx.us) under the "Publications" tab. ♦

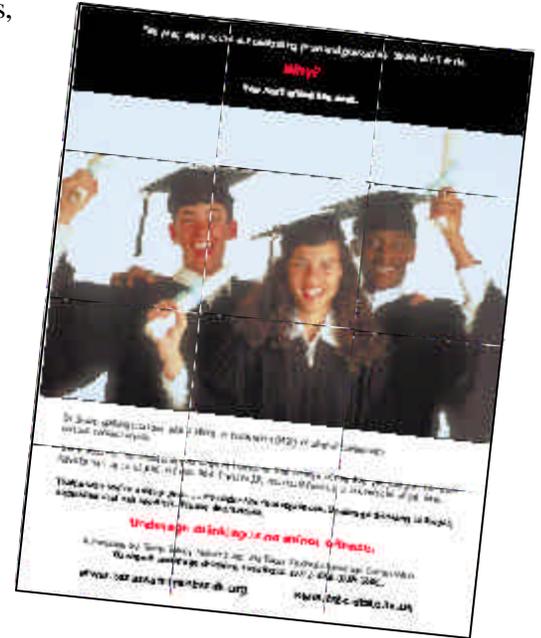
## Regulatory Division

Effective September 1, 2002, the Licensing and Compliance Division changed its name to the Regulatory Division. This change reflects the overall scope of the division and more appropriately designates the broad regulatory authority delegated to each of the departments. ♦

# TOWARDS SAFE & SOBER EVENTS

Throughout the months of April and May and into the first weeks of June, TABC agents were out in force visiting high school proms, graduations, and parties as part of Safe Prom/Safe Graduation 2002. Agents were present at 530 events across the state and issued in excess of 200 criminal citations for underage drinking and related offenses. "Prom night and graduation are important milestones in the lives of Texas teens. All too often these events are marred by needless tragedies caused by underage drinking. The purpose of the 2002 Safe Prom/Safe Graduation campaign is to ensure that Texas proms and graduations are safe and sober events that can provide young people a lifetime of treasured memories," noted Chief Greg Hamilton.

Safe Prom/Safe Graduation 2002 was co-sponsored by the Texas Hotel & Motel Association, the Texas Petroleum Marketers and Convenience Stores Association, the Texas Safety Network, other law enforcement agencies, and Mothers Against Drunk Driving. In addition to stepped-up enforcement activity by the TABC and local police agencies, the campaign also included the distribution of a series of English and Spanish language public service announcements to radio stations across the state and the distribution of 20,000 posters to Texas high schools. The posters were developed and produced in conjunction with the Texas Safety Network, a group funded by the Licensed Beverage Distributors. ♦



## Administrative Hearings to go High Tech

In the Spring of 2001, the TABC received a grant to cover the purchase of teleconferencing equipment. The equipment consists of video cameras which attach to computer monitors and provide us the ability to have visual and audio contact with as many as three remote stations. We anticipate installing video cameras in all district offices.

Teleconferencing will allow the agency the ability to conduct administrative hearings without necessity for the attorney or the administrative law judge to travel to Austin. In addition, an audio video record of the trial can be made, reducing the cost of creating the transcript. The teleconferencing equipment has also been used for meetings, training sessions, and other activities.

For more information, please contact Gayle Gordon, Director of Legal, at (512) 206-3496. ♦

A huge **THANK YOU** to everyone that completed the **TABC Customer Service Survey** during Spring 2002. We truly appreciate all of your feedback and participation. You may view the results from our survey on our web site at [www.tabc.state.tx.us/publications/default.htm](http://www.tabc.state.tx.us/publications/default.htm). ♦

## AT ISSUE: Direct Shipment of Wine...

In a recent ruling, Federal Judge Melissa Harmon of Houston ruled that the Texas Alcoholic Beverage Code prohibition against out of state wineries selling and shipping wine directly to Texas consumers is unconstitutional.

Judge Harmon issued a stay on her order until May 31, 2003 to allow the Texas Legislature to correct the statute. If the law is not changed, Texas residents may order wine directly from out of state wineries and have it shipped directly to their homes.

The opinion does not allow a resident in a dry area of the state, and certainly does not authorize anyone under 21 to purchase wine. Judge Harmon's opinion states, "Because legislating is not the proper role of the

Court, in the final judgment it will enjoin the State of Texas from enforcing these statutes and defer to action by the legislature to repair the Alcoholic Beverage Code."

The opinion mentions the Texas Wine Marketing Act passed in the last session of the legislature (HB 892) but makes no ruling on that language, leaving it intact. Texas wineries may continue to ship to any Texas resident who places an order while physically at the winery and may ship wine to a nearby Texas package store participating in the Wine Marketing Assistance Program if any Texas resident places an order by e-mail, telephone or in any manner other than being physically present at the winery. ♦

## STRATEGICALLY SPEAKING

After several months of collecting input from a diverse body of stakeholders, including license and permit holders, law enforcement agencies, other state agencies, trade associations, advocacy groups and members of the general public who attended public forums held across the state, the agency has developed the latest edition of the Strategic Plan. Adopted by the three-member governing board a few months ago, the document also included input from staff throughout the agency who offered comments on the agency's strengths, weaknesses and issues facing the organization in the future.

The agency will continue to focus on its core mission in the next two years. Areas which the agency will concentrate on in the coming years in terms of improvement or enhancement include:

- Utilize no more than fifteen percent of agent and compliance officer efforts in educational programs interacting or instructing wholesaler and retailer levels of industry, school children, and college-aged students.
- Increase number of retailers who require seller training for their employees.
- Initiate programs to focus on the critical issue of sale of alcoholic beverages to intoxicated persons.
- Continue strong enforcement programs as Minor Stings, Operation Fake-Out, and others that enhance efforts of voluntary compliance and educational initiatives.
- Expand efforts in understanding and learning methods of operation between the upper tiers of the alcoholic beverage industry and ensuring compliance with the Alcoholic Beverage Code.
- Continue internally to focus on communication and training.
- Remain committed to expanding functions of the agency via the Internet.
- Partnering with appropriate coalitions to raise public awareness in issues involving sale of alcoholic beverages to minors and intoxicated persons.

Comprised of more than 150 pages, the Strategic Plan can be found in its entirety on the agency's web site at [www.tabc.state.tx.us/publications/default.htm](http://www.tabc.state.tx.us/publications/default.htm). For more information on the document and its contents, please contact the TABC at [questions@tabc.state.tx.us](mailto:questions@tabc.state.tx.us). A special note of "thanks" goes out to everyone who offered input into the strategic planning process and the production of the final document. ♦

## Malt Beverages: It's A Matter Of Content

What is in these products? Are they malt beverages (beer) or something else? These were some of the questions being asked by the Texas Alcoholic Beverage Commission staff and other state regulators this spring and summer both of the alcoholic beverage industry and of the Bureau of Alcohol, Tobacco and Firearms (ATF) who is responsible for formulation of beverage alcohol products.

It has been determined that the amount of alcohol from the flavoring additives in some of these products far exceeds the amount of alcohol from the beer causing the question to be raised as to should there be a limit of some sort either on the amount of malt beverage required in the product or the amount of

alcohol from the malt beverage. These questions have been posed to ATF and they are in the process of investigation and have announced that they will have a recommendation that may include a proposed rule.

ATF has already ruled that brewers may not use any terms that connote distilled spirits in the statement of composition on beer labels and new labels have been submitted and are already being put into the marketplace so as to not be confusing to the consumer. If you have questions regarding these products, please call Don Wilson, Supervisor of Marketing Practices (512) 206-3410 or TABC General Counsel, Lou Bright (512) 206-3204. ♦

## targeting intoxicated persons

The El Paso office of the TABC and the El Paso County Sheriff's Office have teamed up to combat DWI in El Paso County. The latest statistics show that 48% of traffic fatalities in El Paso County are alcohol related and that 51% of those involved took their last drink at a bar. To help lower that percentage Operation TIPS (Targeting Intoxicated Persons) was implemented.

The idea behind the program was to stop intoxicated bar patrons before they got behind the wheel and to identify the bars that were serving individuals to the point of intoxication. To date, there have been seven such operations conducted resulting in 28 arrests for public intoxication.

To complement the program an undercover task force was formed. The task force works a minimum of once a week and its primary focus is sale to intoxicated persons. With the help of the sheriff's office, there have been seven cases filed for sale to intoxicated persons. Another part of the program is to offer education classes to those places that are found to be in violation. The class will help retailers recognize the signs of intoxication and hopefully promote more responsible alcoholic beverage service.

Both programs are ongoing and the desired result is that the number of DWI fatalities will decrease. ♦

# Nine Revisions Added To Penalty Chart

During the July 23, 2002, meeting, commissioners adopted nine changes to rule 37.60, the Standard Penalty Chart. These changes affected the handling of minor related offenses and altered standard penalties for the offenses of failure to report a breach of the peace; sale of alcoholic beverages to an intoxicated person, permittee or employee being intoxicated on premises; place or manner of operation, open saloon; operation during suspension; and cash or credit law violations.

All minor related violations were grouped together in one section within the rule. A new set of penalties was added for the offense of failing to report a breach of the peace on licensed premises. The penalties for sale of alcoholic beverages to intoxicated persons, permittees intoxicated on premises, and operating during a suspension were increased. The new penalties for intoxication related offenses are 10 - 15 days of suspension for first offenses, 15 - 30 days for second offenses and 30 days to cancellation for third offenses. Operating during a suspension will be punished by five to 10 days of suspension for first offenses, 25 days to cancellation for second offenses, and cancellation for third offenses. The permittee will also be required to fully serve the originally imposed suspension in addition to any subsequently imposed suspension.

The portion of the rule devoted to place and manner violations was amended to reflect offenses related to

obscurity and to add new and lower penalties for violations of city codes. Penalties for open saloon and cash and credit law violations were also reduced. Second and third offenses for open saloon violations have been reduced to

seven to 10 days of suspension and 25 days to cancellation respectively.

Similarly, second cash law violations will call for a three-day suspension while third offenses will result in five to 10 days of suspension. ♦

## IT'S ALL ABOUT TEEN SPIRIT!



Most summer camps are meant to entertain. A few try to teach campers important life skills. At the MADD/TABC Youth Leadership Power Camps held this summer, young leaders learned how to make a difference in their communities' fight against underage drinking and drug abuse.

During the summer of 2002, more than 1,000 young people attended Power Camps in Fort Worth, San Antonio, and El Paso. In addition to having fellowship and fun, they tackled such weighty issues as media relations, crisis intervention, and community action. Before leaving, groups from each of communities represented came together and developed specific action plans for dealing with underage drinking and

drug use in their hometowns. Adult staffers guided the process, but final products—the action plans—were the creations of the campers themselves.

Said TABC Enforcement Chief Hamilton who was present at all three power camps, “The camps serve their intended purpose— They charge the kids up, empower them to take the lead, and sharpen their organizational skills, but beyond that it’s up to the creativity, commitment, and spirit of the kids themselves. Where that can take them is truly amazing to behold,” Hamilton continued, “I predict, without fear of contradiction, that the young people I’ve met during these camps will play a major role in society’s future efforts to tackle the problems associated with underage drinking and drug use.” ♦



Power Campers from the El Paso area slowed down just enough for one quick photo opportunity during their summer adventure. This was the first time that MADD and TABC had partnered for a camp in El Paso and the results were quite successful.

### View Rule Changes On-Line!

You may view changes to rule 37.60, the Standard Penalty Chart, in its entirety by accessing our web site at [www.tabc.state.tx.us/leginfo/rule.htm](http://www.tabc.state.tx.us/leginfo/rule.htm). ♦



## YOU CAN'T AFFORD THE BUZZ!

They're called pump toppers. Recently, more than 1,000 of them at some 485 Valero-Shamrock stations across the state carried a message warning customers of the dangers associated with underage drinking. The pump topper message encourages people to call 1-888-THE-TABC to report underage drinking violations and offers a reminder that underage drinking is *no minor offense*. In conjunction with the Texas Safety Network, the TABC has been working with groups across the state to promote this informational campaign. ♦

## Towards Voluntary Compliance

To enhance agency efforts in voluntary compliance, a reminder of certain code restrictions was recently sent to holders of Manufacturer Agent's Permits. These permit holders represent the manufacturer or the American source of distilled spirits, wine and malt liquor.

The permit holders were reminded that they:

- MAY NOT transport or carry samples of product - only empty containers.
- May not solicit business from holder's of Mixed Beverage permits or Private Club permittees without a wholesaler representative.
- Samples of product, when authorized by the Alcoholic Beverage Code, may only be provided by a representative of the wholesaler and NOT by a representative of the manufacturer.
- May not furnish, give or lend any money, service or thing of value to a retailer.
- May not withdraw product from a wholesaler.

If you have any questions, please contact Don Wilson, Supervisor of Marketing Practices at (512) 206-3411. ♦

John T. Steen, Jr., Chairman  
Gail Madden, Commissioner  
Kel Seliger, Commissioner  
Rolando Garza, Administrator

**TABC Today** is an external publication of the Texas Alcoholic Beverage Commission. We welcome comments, suggestions and/or questions from our readers. To report a possible violation of the Alcoholic Beverage Code, call toll-free 1-888-THE-TABC (Voice/TDD).

**Editor: Claire Myers**

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