

TABC TODAY

Serving the State of Texas Since 1935 . . .
with Courtesy, Integrity, Service

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Manager's Awareness Program RoadMAP to Responsible Service



The TABC is leading the way to more responsible alcoholic beverage sales and service by offering managers an opportunity to attend a TABC-hosted educational program that addresses common issues, such as those related to minors and intoxicated persons.

The Manager's Awareness Program (MAP) was designed by TABC staff for owners and managers of licensed establishments as a roadmap to compliance through education and training. The two-hour course offers separate training opportunities for on- and off-premises license holders throughout the state.

Launched last year, MAP is funded with a grant through the Texas Department of Transportation.

Each time employees stop service to a minor or intoxicated person, they are protecting the individual and business from serious consequences.

"We wanted to do more to help owners and managers train their staff in the responsible service of alcoholic beverages," said TABC Assistant Administrator Jeannene Fox.

Taught by TABC staff, MAP provides information and skills managers need to help employees provide responsible alcohol service. During the program, managers will review sample policies and procedures that will help them create and implement similar guidelines based on issues discussed.

"We hope this program helps managers establish policies, procedures, and training needed to remain in compliance," she added.

Topics. Topics presented include responsible management practices, exemption from administrative

action (safe harbor), civil liability for the licensed establishment, minors, private clubs, intervention techniques, signs of intoxication, refusing sales, and checking employee certification for seller/server training.

Fire Safety Section. The TABC worked directly with the Texas State Fire Marshall's Office to create an educational fire safety and awareness section. This section will give managers the knowledge they need to recognize and remedy common fire safety conditions found in licensed establishments.

More Information. To request information or to schedule a course, contact your local TABC enforcement office.

NEW PUBLIC INQUIRY SYSTEM IMPROVES PUBLIC ACCESS TO LICENSE/PERMIT INFORMATION

Applicants can now check the status of their licenses or permits on the new TABC Public Inquiry System, available on the agency website.

The system allows users to:

- check the status of pending, active or inactive licenses and permits
- search for and create lists of administrative violations (pending and final) by CLP, trade name, geographic location, violation type, license type and status, and date range

- find license/permit numbers by entering a combination of trade name, street number, street name, city, county or ZIP
- create lists of licenses or permits, by:
 - location (city, county, ZIP)
 - type of license or permit
 - status of license or permit including active, inactive, and/or pending originals
 - original issue date
- access lists in three file formats: comma delimited format (.csv), Excel (.xls), or .pdf.

- find retailers on the agency's credit law delinquent list, which identifies those that have not made timely payments to wholesalers, and specifies the amount owed and to whom. No sales or deliveries may be made to retailers on the delinquent list until the debt has been paid.

Timely Reporting. Credit law information is updated hourly. License status and pending original application information is updated daily.

TABC

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TABC TODAY

Marketing Practices Bulletins

Marketing Practices Bulletins provide:

- the latest information on revised rules and agency opinions relating to industry marketing practices
- answers to questions related to marketing practices from members of the alcoholic beverage industry
- clarifications to TABC staff to ensure the consistent interpretation and regulation of laws statewide on issues concerning interaction between the manufacturing, wholesale and retail tier

For the latest news or to subscribe, call Dexter Jones at 512-206-3411 or 214-678-4000, or e-mail marketing.practices@tabc.state.tx.us. To access full text of bulletins, go to: www.tabc.state.tx.us/enforce/MPBull.htm.

MPB 019 Private Club Advertisement

This bulletin establishes acceptable outdoor advertisement practices in a partially wet area—wet for some classes of alcoholic beverages, but not others.

A private club must adhere to 16 TAC §45.105 and §45.107. The holder of a private club registration permit or private club exemption certificate must state in any advertisement (direct or indirect, regardless of brand name) that alcoholic beverage service is only for club members.

This permit holder may advertise the class of beverage authorized for sale in the precinct, city, or county (whichever is applicable), provided no provisions of the code or rules are violated. Therefore, once an area is voted wet, even partially, a private club may advertise the service for a particular class of alcoholic beverages whether limited to on- or off-premises.

Example: A private club in an area wet for off-premises distilled spirits sales but dry for on-premises distilled spirits sales, may place on its marquee in front of the establishment: “Happy Hour Margarita Specials, 5 P.M. to 9 P.M., for club members only.” However, if the area is completely dry, the private club or other permit holder may **not** advertise the sale or service of alcohol from any billboard, sign, marquee or other display seen from outside of the building except through printed material such as newspapers, magazines, posters, etc.

Note: The holder of **any** permit allowing the sale or service of mixed beverages may **not** advertise any prices that may be seen from the street or any sign, billboard, marquee or any other display on or outside of the building (16 TAC §45.105).

MPB 020 On-Premises Consumer Taste Comparison

Under the authority of the Texas Administrative Code [16 TAC §45.113 (b)(4)], TABC created these guidelines for manufacturers of liquor and beer to follow when conducting sampling tests to determine consumer taste preference.

Guidelines.

- The test may only be conducted for manufacturers and specifically excludes all distributors.
- The TABC Marketing Practices Department in Austin must be given notice at least 10 days before testing.
- Consumer preference tests must be held in an unlicensed facility in a wet area and be conducted by a recognized, independent, marketing research firm

on behalf of the requesting manufacturer.

- The marketing research firm must adhere to all city and state laws.
- Only the marketing research firm may provide compensation to participants.
- Participants must be at least 21 and not know which manufacturer requested the test.
- Beverages used must be legally purchased in Texas from a licensed retailer or directly from the manufacturer if not currently available in the Texas market.
- The marketing research firm may supply food for the limited purpose of clearing a participant’s taste buds during the test.
- Participants are not allowed to remove the product from the test area, and all products not consumed must be destroyed.
- The marketing research firm must account for all beverages purchased, used, and disposed of.
- Results may not be advertised or published.

The Code states that a manufacturer, its representatives, agents, employees, contractors, etc., at a licensed retail account may **not**:

- encourage or allow the consumer to taste the competitor’s product and provide feedback on the taste;
- prearrange a promotion with a retailer if representing the beer industry (“pre-arrangement” means any prior communication with a retailer regarding any aspect of a promotion);

(Marketing Practices Bulletins cont'd)

- preannounce a promotion to consumers;
- provide a service to a retailer;
- induce a consumer to participate in a promotion;
- collect data from discussions with consumer regarding consumer preference of product color, aroma, perceived taste, etc.;
- use data resulting from discussions with consumer about the products in any print, television, radio, or other form of advertisement in any manner;
- disparage a competitor's product; or
- provide novelty items to the consumer based on consumer's participation.

The manufacturer may engage in limited spontaneous bar spending promotions that are not preannounced to consumers, prearranged with retailers, or advertised in any manner. During the promotion, a manufacturer may:

- purchase its product and/or a competitor's product for a consumer;
- engage in commercial speech with the consumer(s) about the purchase, product characteristics such as color, aroma and/or perceived taste;
- collect personal data from a consumer, e.g., consumer's name, mailing address, e-mail address, age, etc.; and
- provide novelty items limited in value to \$1 or less.

MPB21 Public Storage of Consumer's Private Wine Collection

This bulletin is intended to clarify statutory and common practices related to public storage of a consumer's private wine collection.

The Code states, "a consumer may possess and/or invariably store his private collection of wine presumably in a manner whereby he has control of the product."

Therefore, as long as the consumer does not intend to re-sell the wine, the TABC will not consider it a violation of the law should a public storage facility store a consumer's private wine collection either in a wet or dry area.

Commercial Advertising of Public Storage. Any public storage facility, either in a wet or dry area, may advertise their wine collection storage service in newspapers or other publications, as well as by billboard, electric sign or other outdoor advertising mediums.

Transportation of Collection by Facility. If the public storage facility offers to transport the consumer's private wine collection from the consumer's residence to the storage facility, it must have a local cartage permit.

Exclusion. The public storage facility may not:

- store alcoholic beverages of any kind for a permit or license holder or
- purchase or offer to sell alcoholic beverages of any kind.



Amendments to TABC Administrative Rules 36.1 and 45.121 were adopted, effective Aug. 23, 2006.

Rule 36.1(d). Possession and Sale of Firearms on Licensed Premises. Historical Reenactments. This amendment outlines conditions allowing firearms on licensed premises during historical reenactments. The permittee must notify the local TABC district office or outpost at least three business days before the event.

Rule 45.121. Delinquent List. The amendment removed unnecessary language, such as references to "Class A" wineries. The rule requires the TABC to specify an effective date to publish the delinquent list to allow industry members to better calculate their obligations under the rule.

TABC Submits 10% Budget Cut

Every two years, Texas state agencies submit a budget request for funding needed to operate for another two years. This year, agencies were required to trim 10% off of their FY 2005-2006 budgets.

For the TABC, that cut resulted in a reduction of \$6.9M and 84.5 full-time employees over the next biennium.

The agency has asked the Legislature to restore the \$6.9M funding and staffing reduction, and has requested an additional \$4.8M for the biennium to cover:

- salary increases;
- equipment needs;
- gasoline price increases;
- travel funds for possible mileage reimbursement increases;
- hardware/software needs; and
- cost increases for Ports of Entry operating expenses for new bridges being built at Donna and Anzalduas.

The agency expects to receive approximately \$900,000 in federal funds for grants associated with enforcing underage drinking laws and spring break.

Education & Prevention News

EUDL Grants Fund Enforcement/Education Programs

The TABC awarded nine 2006-2007 grants totaling \$248,326 to Texas nonprofits, colleges, law enforcement and community coalitions for underage drinking prevention initiatives.

Funding is provided from the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP), Enforcing of Underage Drinking Laws (EUDL) block grant.

EUDL grants fund various statewide and local initiatives to reduce underage drinking in Texas. TABC also uses this funding to support a limited number of agency underage drinking projects.

As the designated state administrator for the EUDL grant funds, TABC monitors each project to ensure the effective use of the funds.

2006-2007 EUDL Grantees

- University of the Incarnate Word (\$20,000)
- University of Texas Health Science Center in San Antonio (\$20,000)
- Harris County Precinct Four Constable (\$17,624)
- The University of Texas at Brownsville and Texas Southmost College (\$20,000)
- Alcohol & Drug Abuse Council of Deep East Texas/Nacogdoches (\$40,000)
- Austin Police Department (\$35,000)
- Corpus Christi Police Department (\$35,702)
- Midland Police Department (\$35,000)
- Tarleton State University (\$25,000)

President Bush Signs STOP Act



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On Dec. 20, 2006, President Bush signed into law the Sober Truth on Preventing Underage Drinking Act (STOP Act).

The STOP Act, representing the first comprehensive legislation that

addresses underage drinking on a national

level, received broad support from legislative, academic, industry, and nonprofit groups.

Major provisions include:

- \$1 million for an annual national media campaign on underage drinking;
- \$5 million in grants to help community coalitions address underage drinking;
- \$5 million in grant funding to prevent alcohol abuse at institutions of higher education;
- requiring the U.S. Department of Health and Human Services (HHS) to produce an annual report on state underage drinking prevention and enforcement activities;
- establishing a federal interagency coordinating committee on underage drinking; and
- authorizing \$6 million for research on underage drinking.

TABC Commissioner José Cuevas, Jr. presented a \$35,000 EUDL grant to Midland Police Chief John A. Urby at a press conference held in Midland (left to right: Cuevas, TABC Administrator Alan Steen, TABC Marketing Practices Coordinator Dexter Jones, Chief Urby, Midland Coalition member Brent Blackburn).

With this grant, the Midland Police Department and the Midland Coalition plan to support educational programs to youth and adults, increasing community awareness of underage drinking laws, consequences of violations, and the physical effects of alcohol abuse.

Chief Urby says the grant will also be used to pay officers overtime to increase "party patrols" and minor stings.

Midland Police Department Receives EUDL Grant



Each year, the Shattered Dreams Coalition honors outstanding community leaders, educators, public servants, and projects involved in supporting the Shattered Dreams program.

Shattered Dreams is a two-day educational event for high school students that features a dramatic re-creation of a fatal alcohol-related crash involving an underage drunk driver—from the moment of impact to the victims' "funerals." This re-enactment graphically illustrates the dangers of underage drinking.

Coalition members (nearly 350 statewide) coordinate and participate in these events. To recognize their efforts, organizations or individuals are nominated in four categories: Catalyst Award, Passionate Educator Award, Public Servant Award, and the Outstanding Follow-up Project Award.

The Catalyst Award honors outstanding individuals who have worked to promote the Shattered Dreams program in their community. **Winners:** Debbie Cross, a parent volunteer from San Angelo, and DrugFree Greenville, an organization dedicated to alcohol and drug awareness programs. **Other nominees:** Charles Rader, Shattered Dreams Team, and Third Realm Communications.

Outstanding Follow-up Project award recognizes a project created from the momentum of the Shattered Dreams program to increase awareness and to continue promoting change. **Winners:** Third Realm Communications and Austin County EMS (represented by Jacqueline Scarborough and Linda Tomas) received the award for the "Brazos High School Shattered Dreams Learning Video." The DVD was distributed to the wardens of the Texas Department of Criminal Justice to help train inmates when they speak at schools on the consequences of drinking and driving.

Shattered Dreams Coalition Honors Outstanding Community Service



TABC commissioners recognized outstanding community service at the Shattered Dreams Award program last June. Left to right: TABC Commissioner José Cuevas, Jr.; Catalyst Award winner DrugFree Greenville representative Trena Stafford; Passionate Educator Award winner Mike Thomas, Ph.D., principal, La Porte Junior High; TABC Commission Chairman John T. Steen, Jr.; Passionate Educator nominee David Drake (principal La Porte High School), and TABC Commissioner Gail Madden.

Passionate Educator. The Passionate Educator Award honors exceptional school employees who have shown a passion for education and love for students that drive them to promote Shattered Dreams and other programs that raise awareness of underage drinking. **Winner:** Mike Thomas, Ph.D., principal of La Porte Junior High. **Other nominees:** Terry Barrett, Cindy Blackman, Paul Carr, David Drake, Scott Potter, Linda Wensel, and Terri Walling.

Public Servant. This award honors individuals from the Texas Alcoholic Beverage Commission, fire departments, police departments, EMS and law enforcement who go the extra mile to support a community's Shattered Dreams Program. This individual is recognized for his or her effort to promote the program and provide ongoing assistance in the planning process. **Winner:** Barbara Lowe, Crime Prevention Specialist from the Uvalde Police Department. **Other nominees:** Art Brandenburg, Benny Brothers, Jake Evans, Artie Freeman, Mike Henderson, Toby Laughlin, Steve Oram, and John Palmer.

TABC HOSTS COLLEGE & UNIVERSITY FALL SYMPOSIUM

The TABC hosted the fifth annual Texas College and University Symposium and Team Training in October 2006. Funded by the Enforcing of Underage Drinking Laws block grant program from the Office of Juvenile Justice and Delinquency Prevention (OJJDP), the symposium helps attendees develop strategies to reduce high-risk drinking issues on college campuses and in surrounding communities.

Symposium guest speakers and program specialists worked with campus teams to individualize action plans using evidence-based strategies for creating and sustaining prevention programs.

Topics included current research, trends, prevention strategies, and state-of-the-art enforcement tools to strengthen college alcohol prevention teams throughout Texas.

David Watts, president of the University of Texas of the Permian Basin, encouraged representatives from 24 colleges to take action and establish strong college prevention teams to create healthy and safe environments.

The next symposium is planned for November 2007.

Excellence in Public Service

Llano County Sheriff Nathan Garrett Receives 2006 Bert Ford Commendation

The Texas Alcoholic Beverage Commission has named Llano County Sheriff Nathan Garrett as recipient of the 2006 Bert Ford Sheriff's Commendation in recognition for his excellence in public service.

The commendation was named after Bert Ford who served as TABC administrator from 1936 to 1947 and promoted a spirit of cooperation between TABC and local law enforcement agencies. He believed there was no better way to earn the public's confidence and respect than through diligence and cooperation.

TABC Administrator Alan Steen said, "The Bert Ford Commendation is an opportunity for our agency to recognize a sheriff who has demonstrated, through resources and personal cooperation, the kind of working relationship that Bert Ford encouraged."

Sheriff Garrett's life exemplifies public service—to country, to county and to community.

"TABC could not function as effectively in the rural Hill Country without the continued support of Sheriff Garrett. He's always been by our side, through good times and bad," said TABC Lt. Tom Dickson of the Waco District Office.

Not only does Sheriff Garrett furnish office space, a firing range and equipment to the agency, but he also shares his experience, advice, work ethic, and enthusiasm to young agents—all at no charge to the agency, continues Lt. Dickson.

A lifelong resident of Llano County, Sheriff Garrett began his law enforcement



TABC Agent Jimmy Poole (left, Kerrville outpost), TABC Assistant Chief of Enforcement Glenda Baker, and TABC Agent Michael Deans (far right, Llano outpost) present the 2006 Bert Ford Commendation to Sheriff Garrett (center) at the Sheriff's Association of Texas Annual Conference in Lubbock last July.

career in 1982 as a deputy sheriff. In 1993, he was elected sheriff and has been re-elected for four consecutive terms of office. He is actively involved in the community and serves on the board of directors of the 33rd Judicial District Narcotics Enforcement Team, as well as the Sheriff's Combined Auto Theft Task Force.

"Sheriff Garrett has continuously assisted all state law enforcement agencies and asks little in return. It's common to find Sheriff Garrett first on the scene and the last to leave. The Sheriff is committed to working as a team in Llano County to better deliver law enforcement service to all county citizens," says Jeff Gillenwaters, Game Warden Captain, Texas Department of Parks and Wildlife.

A U.S. Army veteran who served during the Vietnam War, Sheriff Garrett was

presented with a citation for outstanding service by the VFW Post 10428. He has also received numerous community and civic awards for his service and dedication including being named "Public Servant of the Year" by the Kingsland Chamber of Commerce.

TABC Agent Michael Deans in the Llano Outpost says, "I believe there is no greater example of an 'agent's sheriff' than Llano County Sheriff Nathan Garrett. He is a sheriff that every single day, does anything and everything he can to assist in carrying out our mission."

The Bert Ford Commendation recipients are awarded a handgun and commemorative plaque. In addition, Sheriff Garrett's name will be added to a plaque displayed at the headquarters of the Sheriff's Association of Texas.

ADMINISTRATOR'S CORNER

As the legislative session begins, we again have the opportunity to watch the fascinating interaction between the various players in the alcohol industry and our state government.

Our staff has already made many trips down to the Capitol building to follow legislation and make presentations on TABC activities. One particular governmental process, of which we are quite familiar, is the Sunset Review.

Sunset Review. Due to the failure of the Sunset bill to pass in 2005, we again face the debate surrounding the role our agency should play in the alcoholic beverage industry.

During the past year and a half, we've worked hard to make the changes recommended by Sunset Commission staff.

In December, I reported to the Sunset Commission that, through the diligent efforts of our outstanding employees, we have implemented all of the management recommendations of the Sunset Commission and are ready and able to accommodate the suggested legislative changes.

One of the most significant changes recommended by the Sunset Commission was the implementation of a risk-based enforcement operation.



Alan Steen

Our goal at the TABC is voluntary compliance. Inspections are not intended to antagonize permittees or hinder their business.

Risk-Based Enforcement. Every year, our Enforcement and Compliance Divisions strive to inspect at least 78.5% of licensed premises in Texas. Our Enforcement Division has begun to focus a portion of those inspections on locations that pose a public safety risk.

To identify "at-risk" locations, we continuously generate a "priority list." This list shows all the permittees that have committed, or have allowed to be committed on their licensed premises, a violation considered to be a public safety risk.

We consider as public safety risks violations involving minors, intoxication, drugs, violence, and selling or consuming alcoholic beverages after hours.

When an enforcement agent writes an administrative case on a permittee for one of these violations, that permittee will be listed as a high priority. If the agent writes a criminal case, then the permittee may become either medium or low priority.

A permittee with high priority status can expect to see our enforcement agents at least once every two weeks. To move from high priority to medium priority, a location must complete three consecutive inspections in which an enforcement agent finds no violations.

To move from medium priority to low priority, a location must demonstrate compliance with the law for six months. During this time period, the permittee

can expect to see our agents every month.

Finally, to get off the priority list, a low priority location must continue to abide by the law for six more months. The permittee will be inspected at least twice during this time or every three months.

Our goal at the TABC is voluntary compliance. Inspections are not intended to antagonize permittees or hinder their business.

Agents will be making a concerted effort to assist permittees by meeting with them, discussing problems and best practices, and offering other education. By focusing on locations that have a history of public safety violations, we will be better able to educate and assist those permittees and thereby protect the safety of our communities.

The legislative session promises to be an interesting and exciting time for all. I am encouraged by our employees' ability to adapt to the changing nature of the alcoholic beverage industry and the laws that regulate it.

We look forward to serving the public as the session progresses and beyond.

TABC COMMISSION MEETINGS

To confirm dates for future meetings, go to the TABC web site at:
www.tabc.state.tx.us/about/meeting.htm



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You Asked . . . questions about alcoholic beverage regulations

- Q. What signs are required to be posted at an off-premises establishment such as a convenience store or grocery store?
- A. Three signs are required to be posted at an off-premises retail establishment:
- **Weapons Warning Sign.** "It is unlawful to carry a weapon on the premises unless the person is licensed to carry the weapon under the concealed handgun law."
 - **Consumption Warning Sign:** "WARNING: It is a crime (misdemeanor) to consume liquor or beer on these premises."
 - **Public Interest Information Sign.** "If you have a complaint about the sale or service of alcoholic beverages in this establishment, please contact the Texas Alcoholic Beverage Commission, P.O. Box 13127, Austin, Texas 78711-3127, 1-888-THE-TABC."

THE SIGNS ARE AVAILABLE AT THE LOCAL TABC DISTRICT OFFICES.

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