



Summer/Fall 2004

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New web page lists election status by county

TABC KEEPS TABS ON LATEST LOCAL OPTION ELECTION RESULTS

To help the public and industry stay informed on the quickly changing status of local option election results, the Texas Alcoholic Beverage Commission has added a new web page to its web site.

To access the list of local option petitions and election results by county, go to the TABC home page at www.tabc.state.tx.us and click on the "Local Option Elections" icon.

NEW LAW IMPACT

A new law passed last year making it easier than ever for a community to "go wet" or legalize the sale of alcoholic beverages. Requirements for holding elections to vote on the wet/dry status of a community were relaxed, resulting in a surge of statewide local option elections.

Before September 1, 2003, the law stated an election could not be held until 35 percent of all registered voters signed a petition—and the signatures had to be collected within 30 days. The new law extends the period to 60 days.

On certain ballot issues, the new law also reduces the number of signatures required to 35 percent of the people who voted in the last gubernatorial election. Having more time to recruit a smaller number of supporters has encouraged many groups to start petition drives. Many have already succeeded in legalizing the sale of certain types of alcoholic beverages in their community. Additionally, cities located in multiple counties can now hold local option elections.

WHAT IS A LOCAL OPTION ELECTION?

Those familiar with the Texas alcoholic beverage industry know the voters in the counties, cities, and individual judicial precincts have local control over what types of alcoholic beverages can be legally sold.

A community can be totally dry meaning the sale of any type of alcoholic beverage is illegal. Currently, Texas has 49 totally dry counties.

Local option elections give citizens the opportunity to decide if alcoholic beverages should or should not be sold in their communities. Communities can legalize a wide range of options such as only beer only for off-premises consumption; or beer, wine and distilled spirits for on- or off-premises consumption; and nearly anything in between.

RECENT ELECTION RESULTS

Of the 82 issues voted on between September 2003 and September 2004, 13 have failed. However, the cities of Lockhart and Conroe were the only two communities to become entirely "wet," legalizing the sale of all alcoholic beverages for on- or off-premises consumption.

Thirty-two communities legalized the sale of alcoholic beverages only in restaurants with food and beverage certificates, and

27 communities legalized the sale of beer and wine for off-premises consumption. Four legalized beer and wine, three legalized all alcoholic beverages only for off-premises consumption and one legalized beer only for off-premises consumption.

QUESTIONS?

For information about specific election procedures, contact the Texas Secretary of State's Office or visit their web site at www.sos.state.tx.us/elections/laws/liquorelections.shtml

For questions on licensing, protests or related issues, contact your local TABC district office. Find your local office phone number and address on our web site at <http://www.tabc.state.tx.us/contact/default.htm>

ADMINISTRATOR'S CORNER

During the past year, I've made several organizational changes to ensure the consistency of law interpretation and enforcement, improve communications, and provide first-rate customer service.

To further these goals, I recently transferred the marketing practice function from Enforcement Division to the Executive Office.

I'd like to share my vision of this change and discuss its impact on the industry.

Since I've been at TABC, I've been looking for ways to be more proactive in the work we do with the industry. I needed a structure in this area that would provide me with a more direct line of communication with my staff and industry. The first step in that direction involved moving the Marketing Practices Section under my supervision.

This organizational structure allows me to be more involved and responsive when faced with important issues that come to the commission for consideration. Also, this will give me a greater understanding of industry-wide initiatives as opposed to individual company needs.

Another reason I made this move was to distinguish between interpreting and enforcing the law. One of the first initiatives



"I'm determined this agency will provide consistent, accurate and timely information in all areas. With improved communications comes faster issue resolution."

- Alan Steen, TABC Administrator

designed to clarify these issues was to publish a Marketing Practices Bulletin that presents questions about interpretations of the law and decisions made by the agency.

Currently, we release these issues-based bulletins to our field staff across the state, and then within a few days, they're released to the public. Soon these bulletins will be posted on the agency web site in a searchable format to make it even easier for our customers to find the answers they need.

Marketing Practices sends bulletins by e-mail and regular mail. If you'd like to receive them, please contact Dexter Jones at dexter.jones@tabc.state.tx.us or call 512-206-3411.

As the agency becomes even more focused on being a good neighbor, I expect better

communications and faster action for issue resolution. I want folks to be comfortable coming to us for help, and I expect our staff to provide first-rate customer assistance.

I'm determined this agency will provide clear, accurate and timely information in all areas—not just Marketing Practices. I'll continue my commitment to explore innovative ways to improve communications with the people we regulate. Good communications leads to greater consistency in how laws are interpreted and enforced across the state.

The great state of Texas is growing faster than anyone can keep up—but we're excited about the pace and eagerly look forward to the future, the challenges and the inherent rewards they will bring to all of us. **P**

Alan Steen

MARKETING PRACTICES BULLETINS TELL IT LIKE IT IS



To improve internal and external communications, new Marketing Practices coordinator, Dexter Jones, began publishing bulletins to clarify marketing issues.

Dexter Jones

Marketing Practices policies and issues are presented and explained in these bulletins. These clarifications ensure a more consistent application of the law across the state.

The bulletins are distributed to TABC personnel and public subscribers by e-mail or regular mail.

If you want to subscribe, contact Dexter Jones at 512-206-3411 or dexter.jones@tabc.state.tx.us **P**

BULLETIN SUMMARIES BY ISSUE NUMBER

MPB001. After a local option election, beer distributors may give neon signs to retailers about to be engaged in brewery products the same way as distributors give signs to licensed retailers. However, beer distributors may not provide advertisement that would benefit a specific retailer, such as outdoor unbranded signs that state: "Beer Coming Soon."

MPB002. Texas wineries may offer wine samplings on the premises of retail accounts authorized to sell that product. Such samplings must be independent of the retailer and must be administered in its entirety by the holder of a Winery Permit and/or their employees.

MPB003. In the past, TABC allowed beer manufacturers to furnish and install CO² filters on beer dispensing lines in retail accounts. Upon reconsideration, TABC ruled the CO² filter was equipment not necessary for the proper dispensing of malt beverages. Therefore, the filter could not be sold, loaned or given to the retailer by the manufacturer. Subsequently, the original decision was reversed.

MPB004. TABC provided a guideline detailing the correct method to measure distance between a billboard or electric sign and licensed premises. The correct method shall be to measure in a direct line from the base of the billboard or electric sign to the nearest physical structure (edge of building) of the licensed premises.

MPB005. With regard to Rule 50.10 (d)(2), all other things being equal, a retailer's seller-server policies and procedures that appear on a computerized cash register, in view of the sales clerk every time an alcohol sale is attempted, will be given the same consideration as the policies and procedures displayed on the wall in a prominent location within the licensed establishment. **P**

Top team bridges communication gap between staff and stakeholders

ENFORCEMENT REORGANIZATION TO IMPROVE CUSTOMER SERVICE

Recently, Administrator Alan Steen reorganized the Enforcement Division in Headquarters to build a stronger support network across the state that will provide improved communications and customer service to our field staff, industry and general public. The new structure maximizes resources and enables staff to develop critical program areas.

An important part of the reorganization involved building a top team of highly skilled and experienced staff who will lead the agency's efforts to consistently enforce the law, and to build community partnerships that prevent underage drinking, promote the benefits of seller training, and decrease sales to intoxicated people.

"Everyone answers questions, reviews work, answers the phones, and generally keeps the division moving in a forward direction with 'communication' being the main goal," said Chief of Enforcement Sam Smelser. "Any member of the team can answer questions and assist with any task assigned to our Enforcement Division."

Enforcement Headquarters Management Team

GLENDA BAKER, former major of the Conroe Region, assumed duties as assistant chief to manage headquarters operations last April. Chief Baker coordinates tasks requiring the cooperation of other divisions and oversees licensing standards investigations, enforcement budget and division staffing patterns.

A TABC employee for nearly 26 years, Chief Baker began her career as a temporary clerk and later became an enforcement agent. She worked her way up the ranks to become one of the first regional supervisors and has also served as acting chief of Enforcement.

She's received numerous awards and recognition for her work, including the prestigious Leadership Award from the International Association of Women Police.

Chief Baker is a member of the Texas Peace Officers Association, the Texas Municipal Police Association, and the South

Texas Association of Women in Law Enforcement.

ROD VENNER, former lieutenant at the El Paso District Office, joined the Enforcement Headquarters staff in May as a deputy assistant chief. Venner manages field operations, including review of work product, equipment use and issuance, accident review and training issues.

Before joining the agency more than 16 years ago, Venner earned his bachelor's degree in criminal justice. During his career with TABC, he has served in the Houston, Lubbock, Amarillo and El Paso district offices.

"Rod is a team player who is always seeking out partnerships with other agencies that can be beneficial to us," said Chief Sam Smelser.

JOEL MORENO, former captain of the Odessa Regional Office, was promoted to deputy assistant chief. His new duties include the oversight of existing grant programs, applications for new grants, and implementation and monitoring of prevention programs.

Moreno began his career with the agency 20 years ago after earning his bachelor's degree in criminal justice. During his career, he has served in the McAllen, Houston, and Corpus Christi district offices and Odessa Regional Office.

"In addition to his regular duties, Joel has been instrumental in presenting and promoting our Shattered Dreams and Project S.A.V.E. projects," said Chief Smelser.

P
CLIP AND SAVE

CONTACT INFORMATION

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Now on agency web site

Strategic Plan Meets Public/Staff Needs

Before submitting the TABC Strategic Plan for fiscal years 2005-2009 to the Legislative Budget Board and the Governor's Office in July, the agency sought input from staff and stakeholders from across the state.

Based on comments and suggestions received, limiting external factors, and existing objectives, the agency developed strategic management goals.

2005-2009 STRATEGIC GOALS

- To ensure efficiencies and streamlining are identified and implemented where possible as the agency moves through its licensing technology transformation, while pursuing legislative changes to eliminate impediments.
- To focus enforcement programs on identifying retailers who sell to intoxicated persons and minors.
- To continue to encourage retailers to take advantage of seller-training benefits.
- To continue to focus educational efforts that will have the most immediate effect for members of the alcoholic beverage industry, school-aged children and college-aged adults.
- To stay current in the methods of operation among upper tiers of industry.
- To strengthen partnerships with coalitions, groups, and industry members that will raise awareness in issues regarding the sale of alcoholic beverages to minors and intoxicated persons.
- To focus on training new and current staff as part of succession planning to compensate for the loss of institutional knowledge.
- To continue expanding efforts in effective internal and external communication.
- To ensure agency employees receive fair pay, as available, based on responsibilities.

To review the Strategic Plan, go to the agency's web site at www.tabc.state.tx.us/publications/default.htm **P**

SMITH COUNTY SHERIFF WINS 2004 BERT FORD AWARD

In July, TABC awarded Smith County Sheriff J. B. Smith with the 2004 Bert Ford Sheriff's Commendation. TABC Chief of Enforcement Sam Smelser presented the award at the Texas Sheriff's Association Annual Conference in Wichita Falls.

"Sheriff Smith is a dedicated law enforcement officer who can be counted on to help in any way possible. He constantly strives to bring the law enforcement community together, making sure all the resources in the area are put to good use," said Debra Jones, acting captain of TABC East Texas Region.

"His leadership and cooperation are precisely the qualities for which this commendation was intended."

—Debra Jones, acting captain of TABC East Texas Region

Sheriff Smith took office in January 1977 and is in his sixth term. He is a graduate of the National FBI Academy, Tyler Junior



TABC Chief of Enforcement Sam Smelser (second from right) presents Smith County Sheriff J. B. Smith with the 2004 Bert Ford Sheriff's Commendation for outstanding leadership in law enforcement. TABC Assistant Chief of Enforcement Glenda Baker (left) and TABC Agent Kenneth Tullos from Tyler (right) join in the presentation.

College, and the University of Texas where he earned a bachelor of science in criminal justice. Sheriff Smith serves as chairman of the East Texas Drug Enforcement Task Force, and chairman and co-founder of the Northeast Texas Sheriff's Association. He has been president of the Smith County Peace Officer's Association and currently serves on the board of directors as immediate past president of the Sheriff's Association of Texas.

He is recognized for his support and cooperation with all law enforcement agencies. "Sheriff Smith is always willing to

assist us with public forums, special event operations, county office space and personnel. I have never been refused a request from Sheriff Smith," said TABC Lieutenant Trey Rusk of the Longview District Office.

The Bert Ford Commendation recipient receives a handgun suitable for routine duties and a specially designed plaque. In addition, Sheriff Smith's name will be added to a plaque that identifies each Bert Ford Commendation recipient. The plaque will be displayed at the Sheriff's Association of Texas headquarters. **p**

AGENCY CRACKS DOWN ON AFTER-HOURS SALES

The sale and/or consumption of alcoholic beverages at licensed premises during prohibited hours have become significant issues for TABC. These actions can be detrimental to community safety, as evidenced by the recent death of a Houston fire fighter in an early morning fire on a licensed premises.

For this reason, we want to remind permittees that the agency is authorized to review the circumstances of each law violation and take appropriate action, up to and including cancellation—even on a

first offense. TABC Administrative Rule 37.60(F) authorizes this deviation from the Standard Penalty Chart.

When preparing an administrative case with this type of violation, TABC will consider these situations:

- What time was the violation? Was it 2:16 A.M. or 4 A.M.?
- How many people were involved? Was it just the cleaning crew or was the bar full of people?
- Have there been previous violations?
- Were minors involved?

- Were patrons intoxicated?
- Was the establishment profiting from the activities?

Although this list is not exhaustive, we will take these circumstances into consideration when determining appropriate civil penalties.

Please help keep our communities safe. For more information on authorized service hours and the Standard Penalty Chart, refer to the *Alcoholic Beverage Retailer's Guide* available on the TABC web site at www.tabc.state.tx.us **p**

DON'T GAMBLE YOUR PERMIT AWAY



Watching celebrities bet thousands of dollars on television is thrilling; especially when the viewer knows what hand the other players have. Eight-liner machines bring a Las Vegas style of gambling to those who are not card sharks.

The popularity of games such as Texas Hold'em and eight-liner machines present a common question, "Can I hold a poker tournament or have eight-liners on my licensed premises?"

It is illegal to gamble in the state of Texas. Section 47.02(3) of the Texas Penal Code states that a person commits an offense if he or she plays and bets money or anything of value at any game played with cards, dice, balls or other gambling device. Criminal charges can be filed against a person found gambling, and he or she may be fined up to \$500.

This statute is designed to prohibit organized gambling but would not prevent people from having a poker game at their house or

betting with a golf partner.

According to the Texas Alcoholic Beverage Commission Administrative Rules, gambling on a licensed premises is a "place or manner of operation" violation. If a permit holder violates the gambling statute or allows someone to gamble on the premises, then their permit or license may be suspended or cancelled.

Possession of eight-liner machines or sponsoring a poker tournament on your licensed premises is not by itself illegal. The way the games are played and what benefit the player receives from playing the game is what determines if it is illegal gambling or not. There are several ways that these games can be played lawfully.

If you are planning on holding a poker tournament or have eight-liners in your business, contact the District Attorney's Office in your area to ensure these games can be played in a legal manner. **p**



YOUTH ATTEND TABC/ MADD POWER CAMP

Most kids go to summer camp to be entertained. Some go to learn important life skills that may save lives—such as preventing drug and alcohol use.

Each summer, Mothers Against Drunk Drivers (MADD) and TABC operate Youth Leadership Power Camps that teach young leaders how to make a difference in their communities' fight against underage drinking and drug abuse.

"The Power Camp is a place where students build community leadership abilities and learn how to implement them in their communities and, more importantly, in a peer setting."

-TABC Enforcement Deputy Assistant Chief Joel Moreno

This summer, camps were held in Houston and San Angelo. In addition to having fellowship and fun, students tackled such weighty issues as media relations, crisis intervention and community action. Before leaving, groups from each community worked together and developed specific action plans for dealing with underage drinking and drug use in their hometowns.

"After observing the campers, I have confidence that these students will use their recently acquired knowledge to combat underage drinking and other community dilemmas," Moreno added. Moreno participated at the San Angelo power camp. **p**

TECHNOLOGY TRANSFORMATION ON TARGET

Last spring, the agency began a multiphase technology transformation to update its decades-old mainframe and applications database systems to a modern enterprise environment. The new web-based system enhances the agency's ability to develop customer-friendly enhancements, such as faster processing of renewal applications. As a result, TABC can participate in more of the e-commerce initiatives of state government.

The agency plans to implement other technology solutions designed to increase employee productivity by reducing paper processing work loads. One of the most notable solutions will be the use of document imaging and retrieval technology. Imaging technology will store and retrieve paper documents into the new licensing regulatory system.

The five-phase technology transformation project should be completely operational by July 2005. The first three phases (scheduled for completion January 2005) include the transfer of existing regulatory application systems from the mainframe to new server technology. Phase four, scheduled for completion March 2005, will allow more public inquiry through the agency web site into the status of licensing applications and renewals, certifications, and label approvals. The last phase involves setting up document imaging interfaces within the new system.

For more information on the technology transformation project, contact Director of Information Resources Garry Sitz at 512-206-3454 or garry.sitz@tabc.state.tx.us

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Inquiry Now Easier

Seller Training Certification Inquiry Enhanced

TABC has made it easier to verify Seller Training certifications by enhancing the inquiry screen on the Seller Training web page.

No longer will you have to enter the license or certification number—just the person’s Social Security number and birth date.

Simply go to the TABC web site at www.tabc.state.tx.us and click on “Seller Training” at the left side of the screen. Then click on “MainPage.” This will take you to the first of two security screens. Click “Yes” and when the next screen pops up, click “OK.” This will take you to the page with the inquiry screen.

To view a person’s certification status, type in the person’s Social Security number and birth date. You can access this information 24 hours a day, 7 days a week.

If you don’t have access to the Internet and you want to verify an employee, call your local TABC field office or Seller Training in Austin at 512-206-3420.

Owners of alcoholic beverage establishments use seller training programs to familiarize their employees with laws concerning sales to minors and intoxicated persons.

The Alcoholic Beverage Code requires the Commission to establish minimum requirements for approved seller training programs. Although colleges and private companies sponsor seller training programs, TABC approves the curriculum to ensure compliance with the law. **p**



TABC Administrator Alan Steen fields questions from reporters in San Antonio about the partnership with industry to increase participation in Seller Training programs.

TABC PROMOTES SELLER TRAINING ACROSS TEXAS

On May 4, 2004, TABC held a press conference to unveil plans to increase retailer participation in seller/server training in the El Paso area.

TABC collaborated with Desert Eagle, Glazer’s Wholesale and The Greater El Paso Chamber of Commerce to develop a public information program that would increase voluntary retailer participation in seller/server training.

As part of this collaboration, Desert Eagle and Glazer’s Wholesale distributed brochures to alcoholic beverage retailers along their routes in El Paso County, touting the importance of seller/server training.

TABC values its seller/server training program and the benefits that the program provides to not only retailers but to their employees and to the citizens of Texas as well.

The TABC-approved seller/server training program teaches sellers, servers and managers how to serve alcoholic beverages responsibly by avoiding sales and service to minors and intoxicated persons.

These partnerships have proven effective in increasing retailer participation. Press conferences were also held in Houston, San Antonio and McAllen. The Texas Alcoholic Beverage Commission remains committed to keeping Texas safe for all its citizens.

Responsible Alcohol Service Saves Lives. For more information, call Debbie Dixon, TABC seller training coordinator, at 512-206-3420 or go to www.tabc.state.tx.us/liccom/seller

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SELLER TRAINING TRAINERS ATTEND SEMINARS

Each year, certified trainers for the seller training schools must complete four continuing education hours toward the renewal of their trainer certification.

To help trainers receive these hours and to keep the schools current on the latest Seller Training happenings, the Texas Alcoholic Beverage Commission’s Seller/Server Training Section conducted the 2004 seminars during May and June. Six-hour sessions were held in Lubbock, Mesquite, Fort Worth, El Paso, Corpus Christi, Austin, Houston, and McAllen.

Topics at these seminars included recent research and information on alcohol-related studies, administrative issues, new standardized tests that began in September, training techniques, and a chance for trainers to ask TABC compliance, enforcement, and seller training questions.

One attendee commented, “This is best seminar you’ve ever put on. It gets better and better each time.” Another found it so useful that they suggested, “We should have at least one or two training sessions every year.” **p**

Employee Inquiry

1. Enter the:

Employee SSN:
 (999999999)

Employee Date of Birth:
 (mmddyyyy)

2. Press **or**

(All fields are required)



Responsible Alcohol Service Saves Lives

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TABC Compliance Director Buck Fuller met with State Representative Elizabeth Ames Jones at a recent San Antonio press conference to promote voluntary retailer participation in seller training.

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UPCOMING

Commission Meetings

- October 25, 2004
- November 22, 2004
- December 20, 2004

These dates may change. Confirm dates on our web site at www.tabc.state.tx.us/about/meeting.htm 10 days before the meeting.

Minutes to past commission meetings and agendas for upcoming meetings can also be found on the web site.

If you want to be put on the e-mail list to receive agendas and minutes, e-mail Renee Johnston at renee.johnston@tabc.state.tx.us

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TABC AWARDS 2004-2005 EUDL GRANTS

The Texas Alcoholic Beverage Commission recently awarded nine grants totaling more than \$330,000 to groups committed to age-law enforcement and underage drinking prevention. The awards fund Texas community programs that provide services or training for underage drinking enforcement and prevention initiatives.

In 1999, Texas led the nation in the rate of alcohol-related deaths among 15 to 20 year olds, and this age group remains the most difficult to reach with an anti-drinking message. Each funded project represents a well-planned and potentially successful underage drinking enforcement and prevention initiative.

As the designated state administrator for the "Enforcing the Underage Drinking Laws (EUDL) Block Grant," the TABC awards and distributes the money to qualified grant

applicants from the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention. The agency uses this funding to support a limited number of agency underage drinking projects and to award grants to Texas nonprofit organizations, colleges and communities.

A "Request for Applications" advertised in November 2003 generated 14 grant applications for 2004-2005 funding. The Texas EUDL Task Force and TABC reviewed each application. This task force operates as an advisory group of representatives from several government agencies and a number of statewide prevention nonprofit organizations. TABC staff recommended nine programs for funding and awarded grants.

The grant program requires specific output and outcome measures for the grantee and TABC to determine the effectiveness of funded efforts. p

Pending Rule Changes

An amendment to Rule 45.117 is being considered by TABC and has been published in the Texas Register for public comment. The rule describes the increase in the price of advertising specialties furnished to retailers by wholesalers and liquor manufacturers from \$87 to \$101.

The National Association of Beer Importers has petitioned the Agency to consider amending Rule 45.77 and Rule 45.90 to allow beer and ale also to bear a style designation such as lager, stout, or porter. TABC is considering this amendment and has requested it be published in the Texas Register for public comment.

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2004-2005 GRANT RECIPIENTS

Star Council on Substance Abuse, Erath County	\$27,000
Mothers Against Drunk Driving, Statewide	\$54,000
University of Texas at San Antonio Health Science Center, Statewide	\$50,000
Texans Standing Tall, Statewide	\$56,000
University of the Incarnate Word, Bexar County	\$20,000
Alcohol & Drug Abuse Council of Deep East Texas, Nacogdoches County	\$45,000
Sul Ross State University, Brewster County	\$22,500
Texas Municipal Police Association, Statewide	\$30,000
Randall County Sheriff's Department, Randall County	\$30,000

TABC TODAY

Texas Alcoholic Beverage Commission
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You Asked... questions about alcoholic beverage regulations

I own a store in a town that just had a local option election that legalized the sale of beer. I have applied for a license from TABC. Are we allowed to put up a sign that says "Beer Coming Soon"? After I receive my license, can I put up a sign that says "Now Selling Beer"?

Yes and no. If the city/county officials have canvassed (certified) the local option election for that area as "wet" and the license or permit has not been issued, the unlicensed retailer planning to sell alcoholic beverages may place outdoor signs indicating "Beer Coming Soon."

Once TABC issues the license, the retailer can have **one** outdoor sign that may state "Beer" or "Beer To Go." You cannot have a sign that states "Now Selling Beer." Remember, there can be only one outdoor sign that indicates "Beer." Also, none of the letters on the sign may be more than 12 inches in height.

John T. Steen, Jr.
Gail Madden

*Chairman
Commissioner*

Alan Steen
Jeannene Fox

*Administrator
Assistant 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). The Texas Alcoholic Beverage Commission is an equal opportunity employer and does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment, or in the provision of services, programs, or activities.

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