



# **COMMISSION MEETING**

*July 25, 2008*

Texas Alcoholic Beverage Commission  
5806 Mesa Drive  
Austin, Texas 78731

*John Steen, Chairman  
San Antonio*

*José Cuevas, Jr., Member  
Midland*

*Steven M. Weinberg, MD, JD, Member  
Colleyville*

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# **AGENDA**

## **REGULAR COMMISSION MEETING**

**10:30 a.m. – July 25, 2008**

5806 Mesa Drive  
Austin, Texas 78731



Alan Steen  
Administrator

**TEXAS ALCOHOLIC BEVERAGE COMMISSION**  
5806 Mesa Drive, Suite 185  
Austin, Texas 78731

John Steen  
Chairman-San Antonio

José Cuevas, Jr.  
Member-Midland

Steven M. Weinberg, MD, JD  
Member-Colleyville

Friday, July 25, 2008

10:30 a.m.

**AGENDA**

1. Call to Order		John Steen
2. Shattered Dreams Awards (Presentation)		Sherry Cook Joel Moreno Lizette Villarreal
3. Recognition of Employees With 20 or More Years of Service (Presentation)	Tab 1	John Steen
4. Recognition of Agent Paul Morgan (Presentation)		Glenda Baker
5. Approval of Commission Meeting Minutes of June 27, 2008 (Action)		
6. Administrator's Report: Administrator and Agency Activities, Budget Issues, Staff Achievements (Information)	Tab 2	Alan Steen
7. Approval of Fiscal Year 2009 Operating Budget (Action)	Tab 3	Charlie Kerr
8. Office of Professional Responsibility Update (Information)	Tab 4	Bobby Gideon
9. Fuel Cost Savings Plan (Information)		Joel Moreno
10. Approval to Publish Proposed New Rule, §31.10, Relating to Filing a Complaint (Action)	Tab 5	Joan Bates
11. Approval to Publish Proposed New Rule, §31.11, Relating to Resolution and Information on Complaints (Action)	Tab 6	Joan Bates
12. Adoption of Repeal of Current Rule, §37.60, Relating to Standard Penalty Chart (Action)	Tab 7	Lou Bright
13. Adoption of Proposed New Chapter, §34, Schedule of Sanctions and Penalties (Action)	Tab 8	Lou Bright Carolyn Beck
14. Public Comment		John Steen
15. Executive Session to Consult with Legal Counsel Regarding Pending and Anticipated Litigation Against the Agency and to Discuss the Duties, Responsibilities, and Evaluation of the Administrator (Govt. Code §551.071, §551.074)		John Steen
16. Approval of Legislative Appropriations Request for Fiscal Years 2010-2011 (Action)	Tab 9	Charlie Kerr
17. Next Meeting Date: Friday, August 22, 2008		John Steen
18. Adjourn (Action)		John Steen

Note: - Items may not necessarily be considered in the order they appear on the agenda.

- Executive session for advice of Counsel (pursuant to §551.071 of the Government Code) may be called regarding any agenda item.

- Action may be taken on any agenda item.

**NOTICE OF ASSISTANCE AT PUBLIC MEETINGS**

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services (such as interpreters for persons who are deaf, hearing impaired readers, large print, or Braille) are requested to contact Renee Johnston at (512) 206-3217 (voice) (512) 206-3203 (fax), or (512) 206-3270 (TDD), at least three (3) days prior to the meeting so that appropriate arrangements can be made.



# **MINUTES**

## **REGULAR COMMISSION MEETING**

**10:30 a.m. – July 25, 2008**

5806 Mesa Drive  
Austin, Texas 78731



## **COMMISSION MEETING MINUTES**

**July 25, 2008**

The Commissioners of the Texas Alcoholic Beverage Commission (TABC) met in Regular Session on Friday, July 25, 2008, at the Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Suite 185, Austin, Texas.

***PRESIDING***

***OFFICER:*** John Steen

***COMMISSIONERS***

***PRESENT:*** José Cuevas, Jr.  
Steven M. Weinberg, MD, JD

***STAFF PRESENT:*** Alan Steen, Administrator

Glenda Baker, Assistant Chief of Enforcement  
Joan Bates, Deputy General Counsel, Legal Services  
Carolyn Beck, Public Information Officer, Executive  
Hank Blanchard, Captain, Region I  
Lou Bright, General Counsel, Legal Services  
Jason Cannaday, Network Specialist, Information  
Resources  
Mindy Carroll, Program Specialist, Education and Prevention  
Sherry Cook, Assistant Administrator  
Julie Davis, Technical Writer, Human Resources  
Tom Dickson, Lieutenant, Waco District Office  
Loretta Doty, Director, Human Resources  
Sheila Doyle, Agent, Austin District Office  
Shelby Eskew, Accountant, Business Services  
Bobby Gideon, Director, Office of Professional  
Responsibility  
Nina Gonzales, Agent, San Antonio  
Diana Gonzalez, Director of Tax Division  
Roy Hale, Planner, Business Services  
Amy Harrison, Director of Licensing  
Joe Iagnemmo, System Support Specialist, Information  
Resources

Renee Johnston, Executive Assistant, Executive  
Dexter Jones, Assistant Chief of Field Operations  
Jo Ann Joseph, Assistant Director of Licensing  
Charlie Kerr, Director of Business Services  
Mauro Longoria, Auditor, Corpus Christi Compliance  
Vanessa Mayo, Quality Review Supervisor, Compliance  
Ronald Meissner, Investigator, Office of Professional  
Responsibility  
Joel Moreno, Chief of Field Operations  
Tricia Rutledge, Agent, San Marcos Outpost  
Robert Saenz, Captain, Austin Region 4  
Santos Saldana, Jr., Assistant Director, Ports of Entry  
Headquarters  
Craig Smith, Lieutenant, McAllen District Office  
Karen Smithwick, Regional Compliance Supervisor, San  
Antonio Region 5  
DeWayne Thompson, Research Specialist, Homeland  
Security  
Rod Venner, Assistant Chief of Enforcement  
Jay Webster, Director of Information Resources

***GUESTS PRESENT:***

Sarah Beth Abbott, Pearland EMS  
Shannon Barkwell, Hillcrest Hospital Trauma Services  
David Bowe, Hays High School  
Dewey Brackin, Representing Texas Retailers Association  
M.L. Calcote, Representing Republic National Distributing  
Company  
Tiffany Curnutt, Hays County Sheriff's Office  
Sherrilee Demmer, Wilford Home Medical Center, San  
Antonio  
John DeSpain, Pearland Police Department  
Abraham Diaz, Laredo Police Department  
Daniel Donaldson, Hillcrest Baptist Medical Con  
Rick Donley, Beer Alliance of Texas  
Doug Dubois, TPCA  
Glen Garey, Texas Restaurant Association  
Alan Gray, Licensed Beverage Distributors  
Sheila Henderson, Ben Taub General Hospital  
Trent Henley, Pearland High School  
John Johnston, Chief of Waco Fire Department  
Joe LaRive, Chambers County Sheriff's Department  
Alicia Longoria  
Fred Marosko, Texas Package Stores Association

Jack Martin, Attorney  
Chad McGrath  
Cesar Navarro, San Antonio Council on Alcohol and Drug Abuse  
Albert Quintero, Valley Baptist Medical Center - Brownsville  
Gloria Salazar, Thomason Hospital, San Antonio  
Theresa Shwartz, Hays County Commissioner, Precinct 2  
Beth Smith, Hays County Justice of the Peace, Precinct 2  
Crystal Smith, Hays High School  
Tom Spilman, Wholesale Beer Distributors of Texas  
Keith Strama, Attorney  
Misty Taylor, Ponder High School  
Ralph Townes, Glazer's  
Laurie Townsend, Central Texas Medical Center  
Lizette Villarreal, UT Health Science Center

### **CALL TO ORDER**

Presiding Officer and Chairman John Steen called the meeting of the Texas Alcoholic Beverage Commission to order.

### **SHATTERED DREAMS AWARDS**

Chairman Steen called upon Joel Moreno, Chief of Field Operations. Chief Moreno explained that this was the 10<sup>th</sup> anniversary of the Shattered Dreams program. He explained that today's awards were being presented in conjunction with the statewide coalition, and they would be honoring 14 nominees for making the Shattered Dreams program a success. He introduced Lizette Villarreal of the University of Texas Health Science Center. Ms. Villarreal then introduced other members of the Coalition in attendance, Cesar Navarro and Sherrilee Demmer.

The following awards were announced:

#### **Passionate Educator Award**

The Passionate Educator Award honors exceptional school and community organization employees who have worked in their schools to make the Shattered Dreams program a success.

Award nominees for the Passionate Educator Award:

- David Bowe, Hays High School
- Misty Taylor, Ponder High School
- Trent Henley, Pearland High School
- Shannon Barkwell, Hillcrest Hospital Trauma Service

Shannon Barkwell was named the Shattered Dreams Passionate Educator of the Year. Also, Albert Quintero, of the Valley Baptist Medical Center in Brownsville, was recognized as Passionate Educator of the Decade.

#### Public Servant Award

The Public Servant Award honors individuals from public service positions who go above and beyond to provide support to a community's Shattered Dreams program.

Award nominees for the Public Servant Award:

- John Johnston, City of Waco Fire Department
- Laurie Townsend, Central Texas Medical Center
- Joe Larive, Chambers County Sheriff's Department
- John DeSpain, Pearland Police Department

John DeSpain was selected as the Shattered Dreams Public Servant of the Year.

#### Outstanding Follow-Up Project Award

The Outstanding Follow-Up Project Award honors a project that was created as an extension of the Shattered Dreams program to continue educating students, parents, and the community on the problems of underage drinking and impaired driving.

The Outstanding Follow-Up Project of the Year was the Laredo Shattered Dreams Movie Theatre Viewing, Abraham Diaz of the Laredo Police Department.

#### Catalyst Award

The Catalyst Award honors outstanding community individuals who have worked to promote the Shattered Dreams program in their community.

Award nominees for the Catalyst Award of the Year:

- Sheila Henderson, Ben Taub General Hospital
- Sarah Beth Abbott, Pearland EMS
- Beth Smith, Hays County Justice of the Peace

Beth Smith was named the Shattered Dreams Catalyst of the Year. Gloria Salazar, Thomason Hospital, was recognized as Catalyst of the Decade.

The Commissioners thanked the nominees, the Coalition members, and the participants and expressed that the program has made a difference.

## **RECOGNITION OF EMPLOYEES WITH 20 OR MORE YEARS OF SERVICE**

Chairman Steen called upon Chief Moreno and Assistant Administrator Sherry Cook. The following staff were recognized (Attachment 1):

### **Field Operations**

- 30 Years of Service
  - Pete Champion
- 20 Years of Service
  - Mauro Longoria

### **Support Services**

- 25 Years of Service
  - Xavier Cortez
- 20 Years of Service
  - Carlos Santiago

Mauro Longoria was presented with a plaque. The other employees were unable to attend but would be presented their plaques at a later time.

Chairman Steen acknowledged the sacrifices made by the families of the TABC employees.

## **RECOGNITION OF AGENT PAUL MORGAN**

Chairman Steen called upon Glenda Baker, Assistant Chief of Enforcement.

Assistant Chief Baker stated that she was honored to recognize an agent that truly demonstrates the good traits of an outpost agent. She explained that in April, Senior Agent Paul Morgan went to the Early High School to speak to a freshman class about the illegal possession and consumption of alcoholic beverages by minors. Shortly after making his presentation, a teacher told him that a young woman wished to speak with him. In this conversation, Agent Morgan learned that the stepfather of the young woman was providing her alcoholic beverages and then sexually molesting her. With this information, Agent Morgan immediately contacted the Brown County Sheriff's Department and the Early Police Department. A full investigation discovered that the stepfather was molesting other children and had child pornography images on his computer. Subsequently, due to this investigation the stepfather was arrested. Therefore, as a result of this investigation and Agent Morgan's good rapport within the community and his quick actions to bring this investigation together, Assistant Chief Baker recognized Agent Morgan for his above and beyond efforts.

Agent Morgan stated that for an agent to work in a rural community, one does not just work and live in the community, but becomes a trusted member of that

community. He recognized Administrator Steen, Chief of Field Operations Joel Moreno, Chiefs of Enforcement Glenda Baker and Rod Venner, Captain Hank Blanchard, and Lieutenant Randy Motz for their understanding of the need for TABC agents to work in rural communities. Agent Morgan stated he was much honored that these individuals allowed him to be one of those agents.

Commissioner Weinberg asked if there were ways to award monetary gifts--such as bonuses--to staff that perform special work. Administrator Steen responded that statute is very specific to Schedule C employees and it is therefore more difficult to reward Schedule C employees than civilians. Commissioner Cuevas suggested something such as an area of honor which would tell these stories.

### **APPROVAL OF COMMISSION MEETING MINUTES OF JUNE 27, 2008**

**Chairman Steen called for approval of the Commission meeting minutes of June 27, 2008. Commissioner Steve Weinberg so moved, and Commissioner José Cuevas seconded. The motion carried.**

### **ADMINISTRATOR'S REPORT**

Chairman Steen called upon Administrator Steen to provide the Administrator's report on agency activities, budget issues, and staff achievements. Administrator Steen reported the following:

- Hurricane Dolly caused the agency to close some of the ports in the Brownsville/Progreso areas. Fortunately, no one was hurt, and all of the ports will be up and operational by noon today. Some employees experienced damage to their homes. TABC agents are working with police departments and sheriff's departments to make sure the affected communities are safe.
- Two-year licensing is moving forward. Administrator Steen stated that with regard to Commissioner Weinberg's previous inquiry about prorated reimbursements, TABC staff continue to research the options, which may include a legislative change. Administrator Steen would report on this after all options have been researched.
- There are 30 agent vacancies in Enforcement; over 537 applications were received. The top 210 of those applicants will move to the next testing level, and the testings will happen all over the state in all five regions. Administrator Steen stated that he was pleased with the quality and diversity of the applicants.
- Anheuser-Busch was acquired by InBev, and a merger of Coors and Miller has placed the major beer manufacturers out of this country, and so with that has come the development of territorial agreements. Each one of those brands has a territorial agreement with which they are assigned. There has never been a merger of this level, so those territorial assignments could become an

issue. Administrator Steen noted that staff were looking at this closely to ensure a stable market. The Commissioners suggested that early contact be made with the involved stakeholders to clarify TABC's position. Commissioner Cuevas inquired with Mr. Bright as to the legal input on this issue. Mr. Bright referenced the Beer Industry Fair Dealing Act and a territorial law that governs those territorial assignments. He assured that there are stable contracts in place now and the brands are not going to change, only the corporate ownership changes. He stated that given the structure of law, there should not be an upset although there may be some work ahead for the agency. Commissioner Weinberg referred to Miller Brewing as an example that shows how after a large merger or buyout, things were stabilized, manufacturers and distributors were the same, and only the profit went overseas. **The Commissioners requested that this topic be placed on the next Commission agenda so that it could be discussed more in-depth, including having industry representatives present.**

- A partnership has been formed with the federal government at the Port of Entry locations in which federal agents assist TABC employees by placing a newly designed referral card on the windshields of vehicles during their inspections. This assists in directing persons with taxable items to the proper location and reduces the amount going undetected.
- Agent Ken Rutledge of the Homeland Security Division received a tip that a person posing as a TABC employee was going to establishments to settle cases in which he was receiving payment. Agent Rutledge investigated this issue, took the case to the District Attorney's Office, and followed it through to the courts in which the actor received five years in prison.
- IBM and TEAM for Texas (also known as the data consolidation project) is continuing to be narrowed down in which agreements are forming. It has not been budgeted for Fiscal Year (FY) 2009, but it is in the FY 2010-2011 LAR.
- The Recovery and Restore Project that addresses the backlog issue of Seller Server reports is still moving along, but will not be completed in the time it was anticipated, nor is the software conversion quite complete as it has gone back to the vendor for issues to be addressed. Other options, including outsourcing the data-entry backlog, are being reviewed. In addition, some of the agency's interns have been assigned to the issue.
- Enforcement is still working with the Houston and Dallas Police Departments, as well as other agencies, to assist TABC in gaining access to the information on problematic locations so that it can be analyzed and determined which establishments need to be placed on the priority lists.
- Administrator Steen reviewed various trend information (Attachment 2), which included gasoline expenditures and consumption, inspections, recidivism rates, and turnover rates. **With regard to turnover rates, the Commissioners requested that "hard" and "soft" costs of hiring and training be reported so that when requests for monies are made to the Legislature, the cost benefits can be shown of providing money for**

**employee incentives as opposed to the costs of training already being spent.** Loretta Doty, Director of Human Resources, stated that the initial goal is getting persons to stay on for at least five years, in order to help increase efficiency.

- Administrator Steen stated that with the loss of revenue occurring at the Ports of Entry, other monies will need to be transferred to keep the Ports of Entry in operation.

At the conclusion of Administrator Steen's report, Chairman Steen encouraged Administrator Steen to continue to bring challenges and problems before the Commission.

Commissioner Weinberg inquired about the Perfect World Project, specifically the flexible hours used by staff. Amy Harrison, Director of Licensing, stated that it was going well, and production levels have increased drastically. Administrator Steen stated that the outcomes of the Perfect World Project would be reported by September 1, 2008, and a decision would be made as to whether this project will be pushed out to other departments. Administrator Steen also stated that Sherry Cook, Amy Harrison, Jay Webster, as well as all the people working for them have really been working fast and furious on the licensing reengineering process and the two-year licensing.

### **APPROVAL OF FISCAL YEAR 2009 OPERATING BUDGET**

Chairman Steen called upon Charlie Kerr, Director of Business Services. Mr. Kerr presented the Operating Budget for Fiscal Year 2009 (Attachment 3).

Commissioner Weinberg inquired as to whether E85 Fuel was being utilized yet and if any fuel cost savings had been reported. Administrator Steen replied that he was positive it was being used when possible, but the cars and fuel had not been in use long enough to determine the savings amounts. Commissioner Weinberg stated that while the fuel is less expensive than gasoline, it may not be better gas mileage, and the efficiency would need to be determined over time. Administrator Steen agreed.

Mr. Kerr summarized the strategies that were planned to be used in efficiently managing the budget.

Commissioner Weinberg then asked if the Fuels and Lubricants costs were derived from two years ago. Mr. Kerr stated that it included the increase anticipated for 2009 and that as of now, the fuel budget is at a deficit that would need to be made up in other areas. Commissioner Cuevas asked if the budget included the two-percent salary increase. Mr. Kerr replied that yes, it did include the two-percent salary increase that goes into effect September 1, 2008, for Schedules A and B. It was then questioned if Administrator Steen was exempt

from this raise; Mr. Kerr clarified that he was exempt, as well as Schedule C employees. Commissioner Cuevas asked if vacation pay had been budgeted. Mr. Kerr replied that vacation pay, retirements, or judgments have not been budgeted. He stated that last year over \$400,000 lump sum was spent for vacation pay and over \$160,000 for judgments. These are unanticipated costs that will be placed in the budget as they come along. Not all contingencies were placed in the budget except for fuel costs, which were based on current consumption and should go down with the planned strategies.

**Chairman Steen called for a motion to approve the Operating Budget for Fiscal Year 2009. Commissioner Weinberg so moved, and Commissioner Cuevas seconded. The motion carried.**

### **OFFICE OF PROFESSIONAL RESPONSIBILITY UPDATE**

Chairman Steen called upon Bobby Gideon, Director of the Office of Professional Responsibility.

Captain Gideon addressed the Commissioners' concerns about tracking complaints, specifically in the areas of unprofessional behavior and rudeness (Attachment 4). He stated that research was performed for the periods of 2004-2008 for the Enforcement, Compliance, and Licensing Divisions. It was found of 198 unprofessional complaints received, 51 were sustained; the other 147 were not sustained, or were unfounded or exonerated.

Captain Gideon addressed the complaints against Enforcement Division separately. In this he showed the number of complaints in comparison to the number of public contacts made by Enforcement personnel between the years 2004-2007. It was determined that in this period, a steady increase was made in public contacts while a decrease occurred in complaints. Over the four year period, of over 5,000 public contacts made by Enforcement personnel there were only 125 complaints filed with OPR.

For the year 2008 to date, for all agency divisions, only 23 complaints have been filed with regard to unprofessional conduct. Due to ongoing investigations, the outcome of those complaints has yet to be determined, so a total of sustained complaint cases is unavailable at this time. The research of unprofessional conduct complaints included an attempt to compare to other state agencies (i.e., Texas Department of Public Safety, Texas Parks and Wildlife Department and other states' alcoholic beverage commissions). The results were unable to be determined because other agencies do not track this information. In addition, other agencies consider rudeness a management issue and do not direct these types of complaints to their internal affairs divisions.

Captain Gideon stated that it is still recognized that unprofessionalism and rudeness are a problem, and OPR has made recommendations concerning these issues that have been implemented and include management and in-service training that address these topics. Captain Gideon added that the current software used to aid in investigations of complaints assists them in tracking the types of complaints. He stated the agency's mission, vision, philosophy, guiding principles and four cornerstones be treated not just as words but as a common way of doing business and these need to be posted, talked about, discussed, addressed at every opportunity, and reinforced by management.

Captain Gideon concluded that he did not think unprofessionalism is a problem with the employees of TABC and the research shows this to be true. Chairman Steen thanked him for his report and concurred with Captain Gideon that when the numbers are compared, unprofessionalism complaints do not seem to be an issue. He also stated that even though the numbers do not show a problem, that it is excellent initiative that efforts are being made to reduce complaints even more.

### **FUEL COST SAVINGS PLAN**

Chairman Steen called upon Chief Moreno to present the efforts being made to save on fuel costs.

Chief Moreno began by stating that public and employee safety will not be jeopardized; however, performance measures may be compromised in that efforts will be focused on problematic locations. He stated that agents will no longer come to the office on a daily basis, but will partner up based on residential locations and proceed to assigned locations and establishments. He also stated that he had asked for input from the field on these topics and most of these ideas came from the agents, including ensuring that proper vehicle maintenance was performed, use of cruise control, and utilizing ethanol fuel in the flex fuel vehicles.

Chief Moreno also acknowledged that Compliance will be utilizing the residential partnering idea to help them save costs. Although they do not have fuel purchasing cards, they do receive reimbursement at 58 cents per mile, and being able to perform audits and inspections without coming into the office will assist in lowering costs. He then suggested that at certain times vehicle leasing may help lessen costs by having a lower overall cost than the reimbursement rate. Commissioner Weinberg inquired as to the fuel usage comparison of the two types of vehicles owned and operated by TABC. Chief Moreno stated the Ford Crown Victorias get about 16 miles per gallon and the Chevrolets get about 24 miles per gallon; it is planned to purchase more Chevrolet Impalas in the future.

Chairman Steen commended Chief Moreno on his report and the efforts being made. He then stated that he was aware that other police agencies were faced with the same fuel cost problems and they were addressing the issues by

different means, including a return to the “walking beat.” Chairman Steen then inquired if any of these ideas could be utilized in the agency’s manner of enforcement. Chief Moreno stated that ideas for upcoming events (e.g., Fiesta, Spring Break) included utilizing other methods of transportation such as foot patrol, Segway rentals, and bicycles.

Chairman Steen thanked Chief Moreno for taking the necessary actions to reduce the agency’s fuel costs, and then inquired with Administrator Steen as to the amount of deficit in the fuel budget. Administrator Steen redirected this to Charlie Kerr, who replied that the budget was \$70,000 over the allocated amount for fuel. Commissioner Weinberg encouraged the practice of fueling during cooler hours and explained the scientific reasoning which is that due to the heat causing fuel to expand and expel into vapors as it is pumped, it reduces the amount of purchased fuel pumped into the vehicle.

### **APPROVAL TO PUBLISH PROPOSED NEW RULES ON COMPLAINTS**

Chairman Steen called upon Deputy General Counsel, Joan Bates, to present the Proposed New Rule, §31.10, relating to filing a complaint (Attachment 5) and Proposed New Rule, §31.11, relating to resolution and information on complaints (Attachment 5).

Ms. Bates began by distinguishing that this type of complaint is against establishments and entities regulated by TABC, as opposed to being a complaint against an agent, employee, or personnel filed with the Office of Professional Responsibility. She stated that TABC has always had a complaint process, and this was based on the one currently in the Enforcement Division procedures manual, but these are being proposed as rules to meet the Sunset Bill recommendation that public rule be set, published, and made available to the public.

**Commissioner Weinberg moved to publish proposed new rule, §31.10, relating to filing a complaint, and Commissioner Cuevas seconded. The motion carried.**

Chairman Steen next directed the vote to the approval to publish proposed new rule, §31.11, relating to resolution and information on complaints. **Commissioner Cuevas so moved and Commissioner Weinberg seconded. The motion carried.**

### **ADOPTION OF RULES RELATING TO PENALTIES**

Chairman Steen called upon Lou Bright, General Counsel of Legal Services, and Carolyn Beck, Public Information Officer, to present the repeal of current rule

§37.60, relating to standard penalty chart (Attachment 6) and the proposed new Chapter, §34, on schedule of sanctions and penalties (Attachment 6). Mr. Bright opened by explaining the purpose of the proposed penalties, the actions the Commissioners may take on the items at hand, as well as the significant changes and key items contained in the proposed penalties and sanctions. He then turned the presentation over to Ms. Beck to explain the method of calculation of penalties.

Ms. Beck highlighted the major changes when compared to the version proposed in the *Texas Register*. Removal of the marketing practices violations and the addition of elevated penalties for prohibited activities section involving children under 18. She explained the following methodology:

- The chart involves a fixed civil penalty payment rate – the dollar amount for each day of suspension assessed.
- The civil penalty payment rate assessed is \$300 per day. In the current penalty chart, the dollar amount for each day assessed is \$150. A standard penalty chart was first used by the agency in 1984, and based on the US Bureau of Labor's Consumer Price Index, \$150 in 1984 is equivalent to \$310 in today's dollars.
- With some exceptions involving cancellation, the penalty chart reflects a consistent increase in the penalty for subsequent violations. The number of days of suspension assessed for a second violation is equal to twice the first violation. The number of days assessed for a third violation is three times the second violation (or six times the first violation). The dollar amount per day does not increase.

She concluded by stating that it was determined that a four-year review mandated by statute for all administrative rules will allow for periodic proposals for increases to keep the penalties in line with inflation.

Chairman Steen and Commissioner Weinberg expressed the desire to hear public comment on these issues prior to voting and invited anyone wishing to make public comment. Chairman Steen stated that Dewey Brackin had registered to provide comment on this topic.

Mr. Brackin, representing the Texas Retailers Association, came forward and thanked every one for allowing industry representatives to be a part of the process in proposing the surcharges and penalties. He then stated that any opposition the Association he represents had, is now being retracted.

Commissioner Weinberg exclaimed what a great job was performed on this task and it was evident that staff and all involved parties worked diligently to find a common ground.

Chairman Steen called for a motion to repeal current rule §37.60, relating to the standard penalty chart and approve the proposed new chapter, §34, schedule of sanctions and penalties, as presented in the amended versions. Commissioner Cuevas so moved, and Commissioner Weinberg seconded. The motion carried.

### EXECUTIVE SESSION

Chairman Steen made the announcement that the regular open session of the Texas Alcoholic Beverage Commission would be recessed, the time being 12:30 p.m., July 25, 2008, and an executive session would be held to consult with Legal Counsel regarding pending and anticipated litigation against the agency and to discuss the duties, responsibilities, and evaluation of the Administrator, pursuant to Texas Government Code, §§551.071 and 551.074.

Chairman Steen announced that the Texas Alcoholic Beverage Commission had concluded its executive session and was in open session, the date being July 25, 2008, and the time, 1:32 p.m. No final action, decision, or vote was made in the executive session.

### APPROVAL OF LEGISLATIVE APPROPRIATIONS REQUEST FOR FISCAL YEARS 2010-2011

Chairman Steen called upon Charlie Kerr to present the Legislative Appropriations Request (LAR) for Fiscal Years 2010-2011.

Administrator Steen opened for Mr. Kerr by explaining the concepts behind this LAR which included completion of meeting the requirements of the Sunset Bill. Chairman Steen apprised everyone that although Administrator Steen's explanation seemed brief, he had in turn met with each Commissioner and thoroughly discussed all aspects of the LAR.

Administrator Steen then stated that other focuses of the LAR included: the reduction in the turnover rate of civilian employees to assist in creating consistency in the agency; the concept of being FTE (full time equivalent) neutral; and modernizations at the Ports of Entry to potentially increase revenue. He then turned the presentation over to Mr. Kerr whom outlined the base budget, the exceptional items, and the total request amount (Attachment 7). He included that with the two-year permit process going into effect in October of 2008, the revenue should increase sufficiently to cover costs not appropriated.

Commissioner Weinberg moved to approve the Legislative Appropriations Request for Fiscal Years 2010-2011. Commissioner Cuevas seconded. Chairman Steen called for clarification of the exceptional items for public

**record.** Mr. Kerr explained the items (Attachment 7), as well as a few changes that may occur as a result of the Legislative Budget Board. **Being no opposition, the motion carried.**

### **NEXT MEETING**

Chairman Steen announced the next meeting date, Friday, August 22, 2008.

### **ADJOURNMENT**

**Chairman Steen called for a motion to adjourn. Commissioner Weinberg so moved and Commissioner Cuevas seconded. The motion carried, and Chairman Steen announced that the meeting was adjourned.**

# **Attachment 1**

**Longevity Service Awards**

# **TABC – LONGEVITY SERVICE AWARDS**

## **30 YEARS OF SERVICE**

### **Pete Champion**

Sergeant Pete Champion was introduced to working at TABC with an Internship at the McAllen District Office in 1977. He went on to graduate from Pan American University in 1978 and was hired as an agent for the Commission where he was stationed in El Paso. After a few years, he transferred to McAllen and then in 1983 was able to move to the Austin District. In 1987 he accepted an assignment to the San Marcos Outpost and was eventually promoted to Sergeant in 1989. Pete has been a valued front line supervisor for the Austin District for the past 19 years, displaying a great work ethic.

Pete has been married to Gayle, who is a school teacher for Lockhart I.S.D., for the past 17 years. Pete stays very active with his son, Jake and his wrestling club, as well as with his daughter, Miranda and her soccer club. In his free time Pete enjoys hunting and fishing.

## **25 YEARS OF SERVICE**

### **Xavier Cortez**

25 Years ago Xavier Cortez began his career with TABC in El Paso, Texas. After a few years in El Paso he transferred to Hidalgo POE, then several years later he was able to receive an assignment in his home town of Laredo where he still resides with his wife of 20 years, and his 15 year old daughter.

In addition to his position as TCO III, Mr. Cortez has been a rancher throughout his entire adult life and continues to be very active in the ranching industry. He is a member of the Texas South Western Cattle Raisers Association, Texas Corrientes Breeders Assoc., Independent Cattle Raisers Assoc., Professional Rodeo Cowboys Assoc., United States Team Roping Assoc., American Quarter Horse Assoc., and numerous other associations.

## **20 YEARS OF SERVICE**

### **Mauro Longoria**

Corpus Christi Auditor, Mauro Longoria originally started work with the Texas Alcoholic Beverage Commission at the El Paso District Office in 1976 as a Mixed Beverage Tax Auditor. Mauro worked 5 years in the El Paso District Office, after which he moved to the San Antonio District Office for several years. He then spent 10 years in the Corpus Christi District Office before transferring to the Comptroller of Public Accounts in January 1994.

At the time of his departure with the Agency, Mauro was well versed in conducting various types of audits such as Special Investigations, Border Tax Collector/Bridge audits, Liquor and Beer Wholesalers Audits, and Mixed Beverage Gross Receipts Tax audits. The Comptroller of Public Accounts hired Mauro when the Mixed Beverage Gross Receipts Tax auditing function was transferred to that agency in 1994.

Mauro worked at the Comptroller of Public Accounts Audit Division in the Corpus Christi Office from 1994 until he retired in 2003. During his employment with the Comptroller of Public Accounts, he conducted various tax type tax audits such as Sales & Use tax, Mixed Beverage Gross Receipts Tax, Local Revenue Tax, Refunds, and International Fuels Tax Agreements. Mauro re-hired with the Comptroller of Public Accounts in June 2004 primarily to work on Mixed Beverage Gross Receipts Tax audits, Sales & Use Tax, and Unclaimed Property of local businesses.

In 2006 Mauro was re-hired with the Texas Alcoholic Beverage Commission as a Compliance Auditor and is currently assigned to the Corpus Christi District Office.

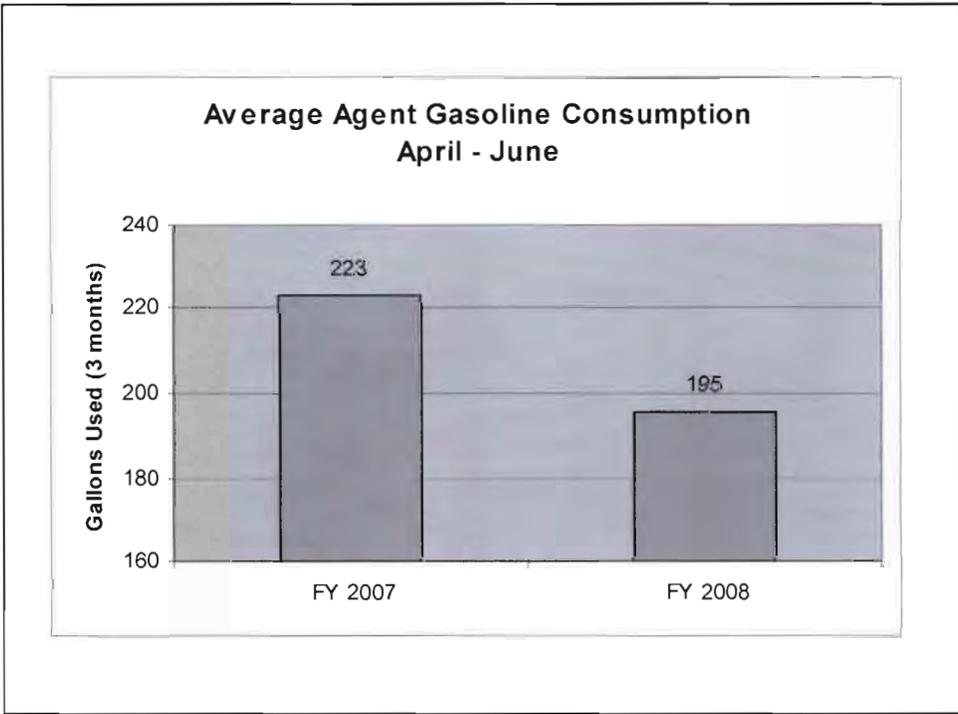
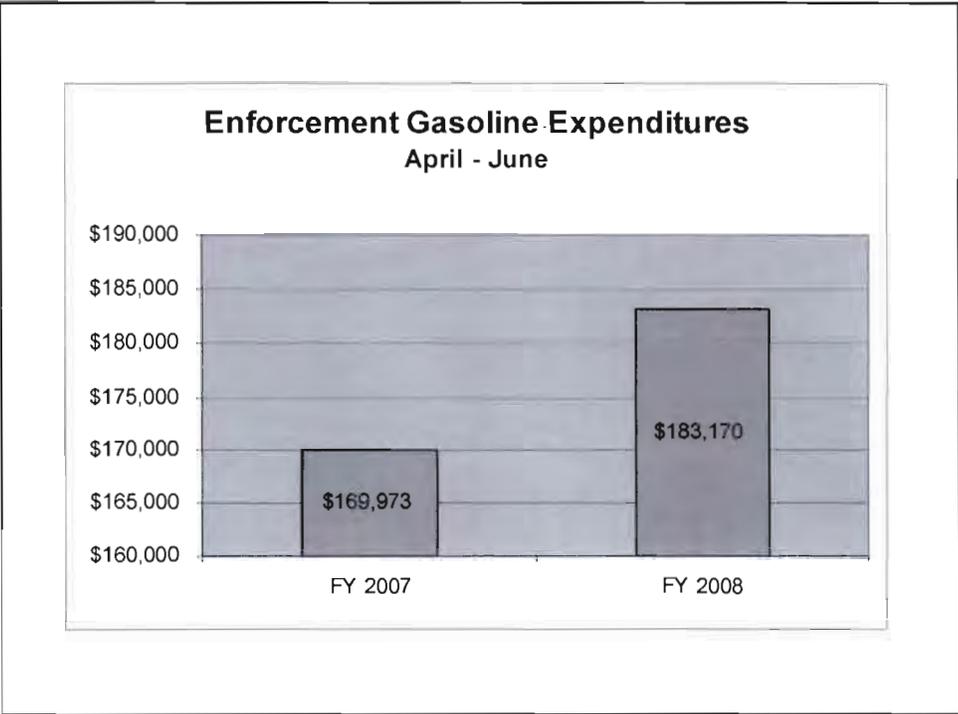
Mauro has been married to his beautiful wife, Alicia, for over 36 years. They have three daughters: Laura, Jennifer, and Veronica and four grandchildren.

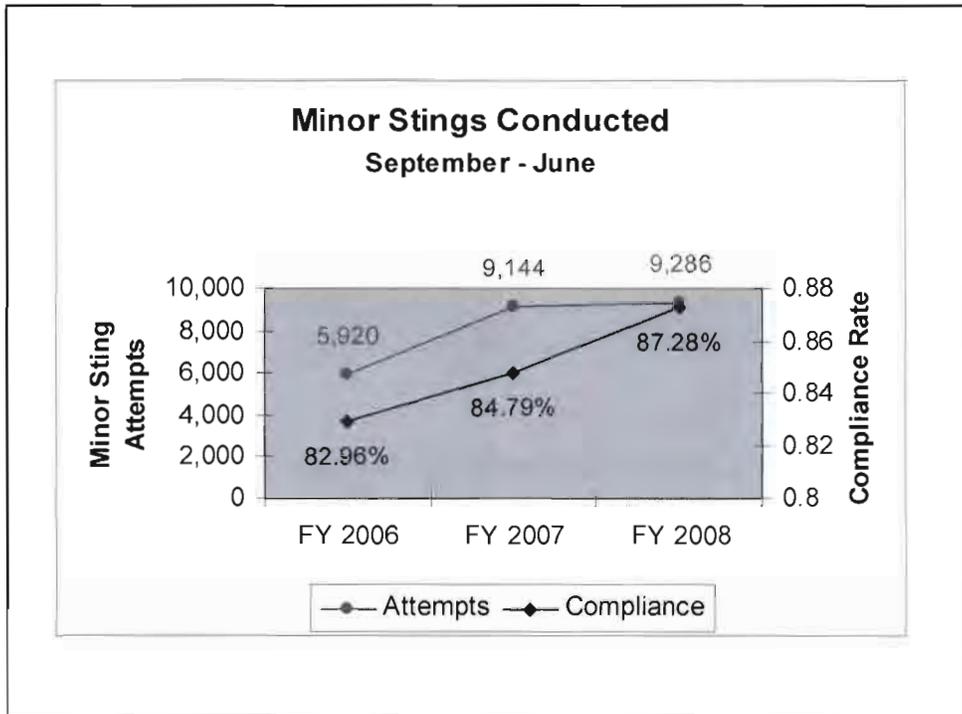
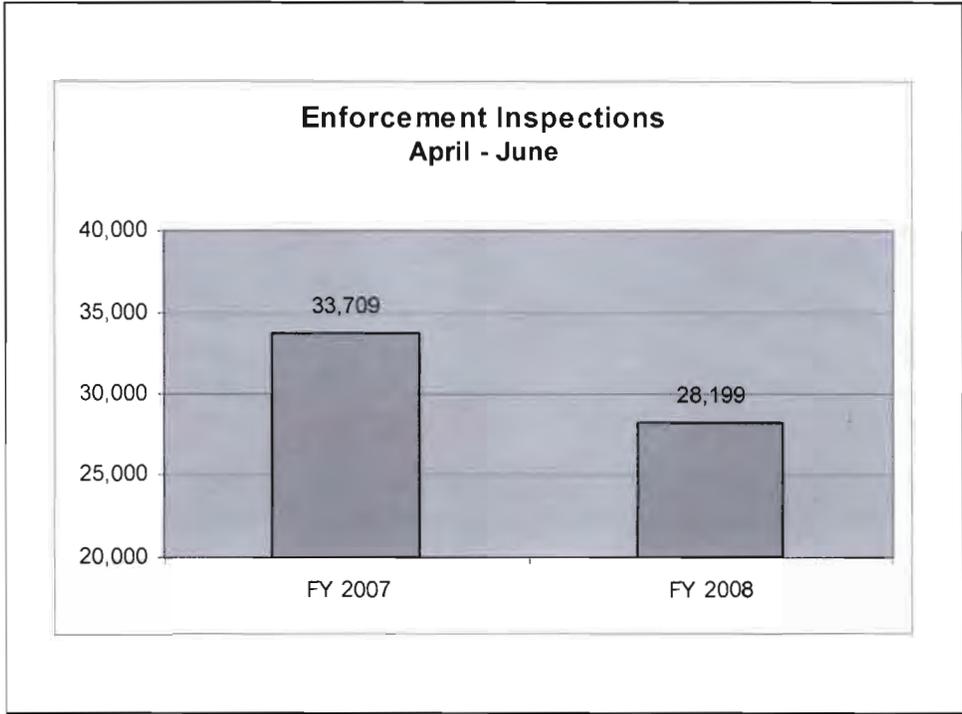
### **Carlos Santiago**

Carlos Santiago began his career in 1988 with the Ports of Entry in El Paso, Texas. In 1990 Carlos Santiago transferred to Hidalgo POE where he continues to work in the position of Taxpayer Compliance Officer III. Mr. Santiago is a very dependable employee and is a great example to his co-workers. Carlos enjoys running and going to the movies. He also has a 21 year old son who received a scholarship to attend the University of Texas at Pan American and is studying engineering.

# **Attachment 2**

**Administrator's Report on Trends**





**Observed Recidivism Rates  
Sale to Minor Offenders  
FY 2007 & FY 2008  
September - June**

	FY 2007 thru May 31	FY 2008 thru May 31
Retailers Charged	1475	1327
w/ Prior Sale to Minor Case in Previous 12 mo.	236	163
Recidivism Rate After 12 mo.	16.00%	12.28%
w/ Prior Sale to Minor Case in Previous 24 mo.	317	242
Recidivism Rate After 24 mo.	21.49%	18.24%
w/ Prior Sale to Minor Case in Previous 36 mo.	367	307
Recidivism Rate After 36 mo.	24.88%	23.13%

**Prohibited Hours Inspections  
& Public Safety Compliance  
September - June**



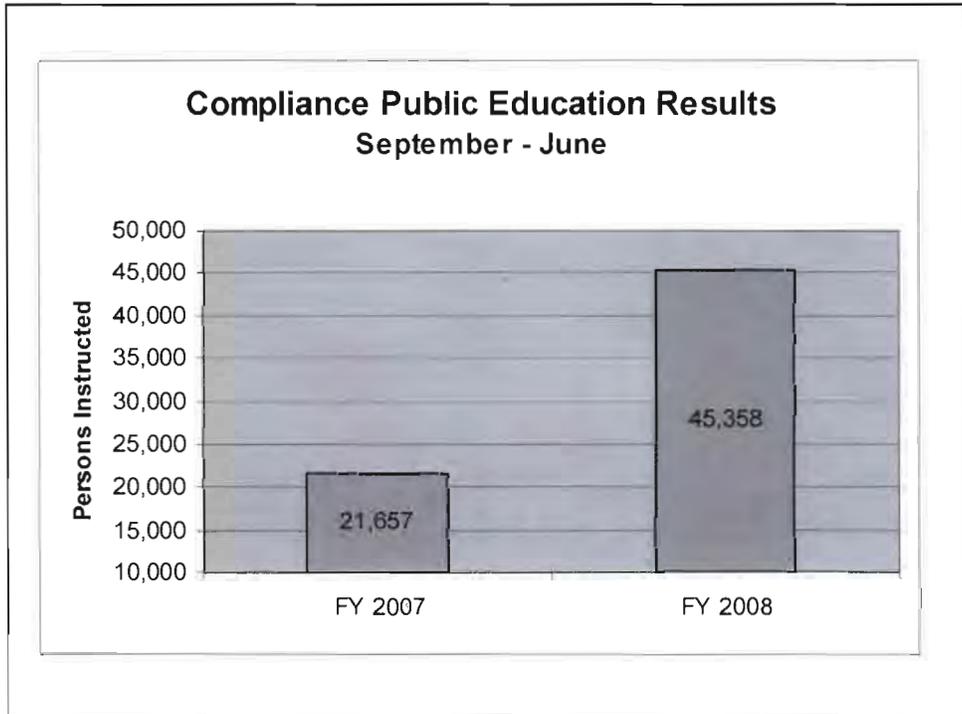
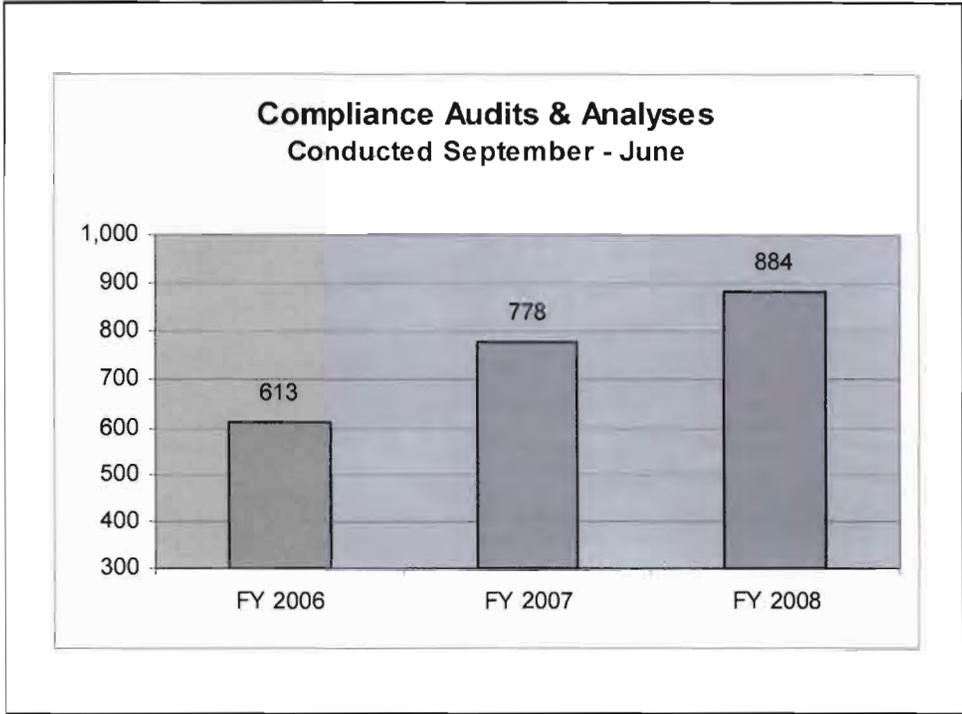
**Observed Recidivism Rates  
Prohibited Hours Offenders  
FY 2007 & FY 2008  
September - June**

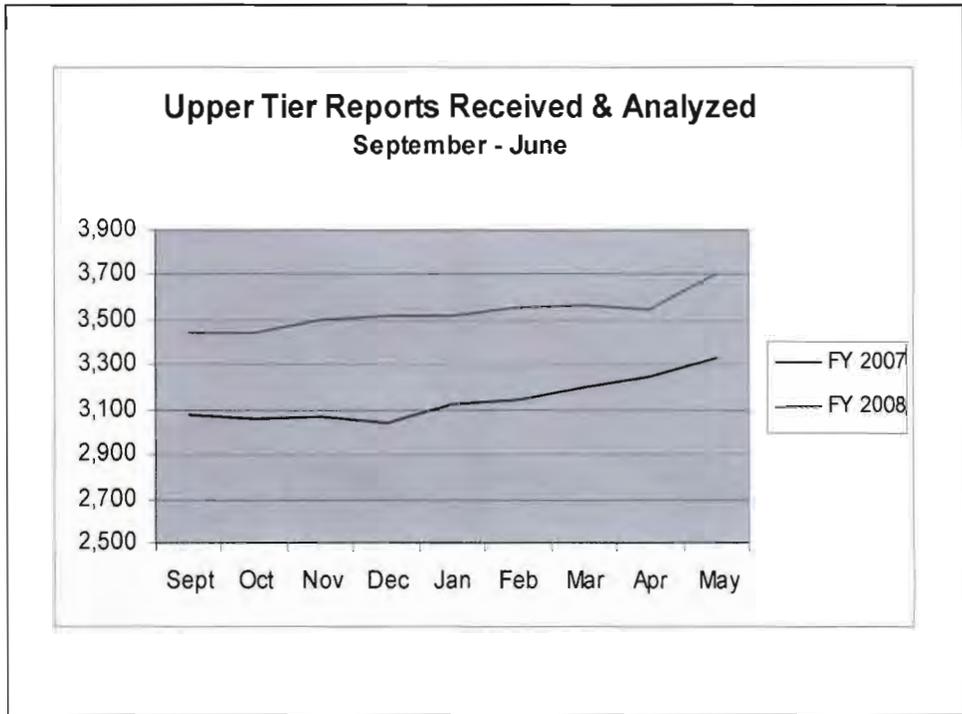
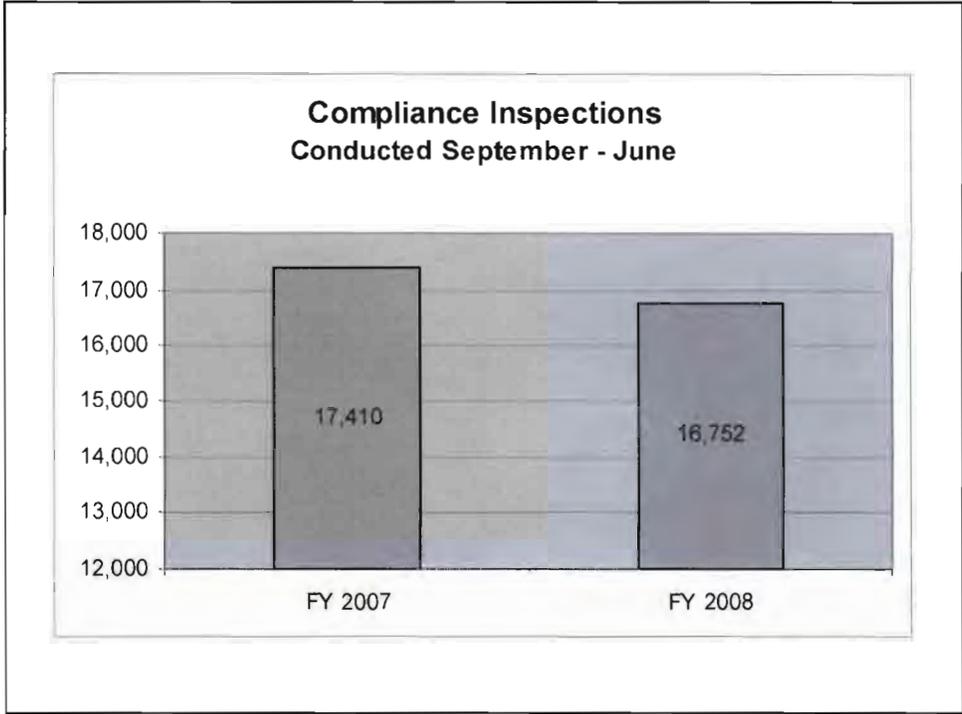
	FY 2007 thru June 30	FY 2008 thru June 30
Retailers Charged	215	199
w/ Prior Prohibited Hrs Case in Previous 12 mo.	26	20
Recidivism Rate After 12 mo.	12.09%	10.05%
w/ Prior Prohibited Hrs Case in Previous 24 mo.	32	23
Recidivism Rate After 24 mo.	14.88%	11.56%
w/ Prior Prohibited Hrs Case in Previous 36 mo.	35	24
Recidivism Rate After 36 mo.	16.28%	12.06%

**Top Ten Complaint Allegations  
September 2007 - June 2008**

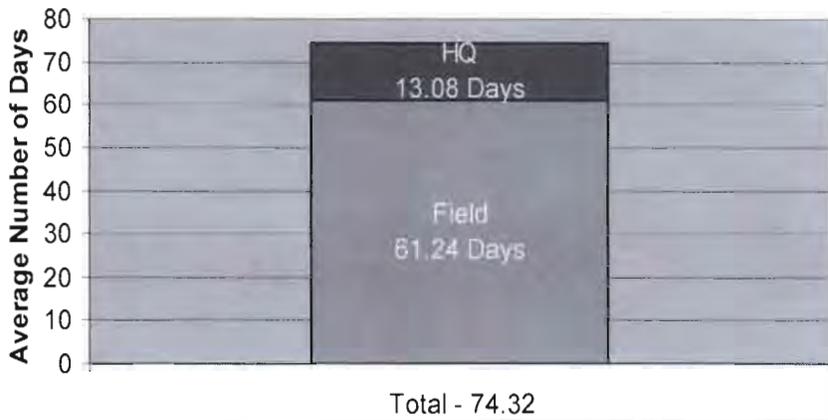
<b>Allegation</b>	<b>Count</b>	<b>% Total</b>
Sale to Minor	2,670	28.6%
Sale to Intoxicated Persons	898	9.6%
Uninvoiced, Improperly Stamped or Unauthorized AB	462	4.9%
Breach of Peace on Licensed Premise	436	4.7%
Bootlegging	423	4.5%
Sale/Possession of Drugs on Licensed Premises	378	4.0%
Intoxicated Licensee/Permittee on Licensed Premise	344	3.7%
Subterfuge/Permitting Another to Use License/Permit	332	3.6%
Sale/Serve/Deliver During Prohibited Hours	328	3.5%
Permitting Minor to Possess/Consume AB on Lic Premise	295	3.2%

**6,722 complaints involving 9,335 allegations received & assigned  
for investigation**

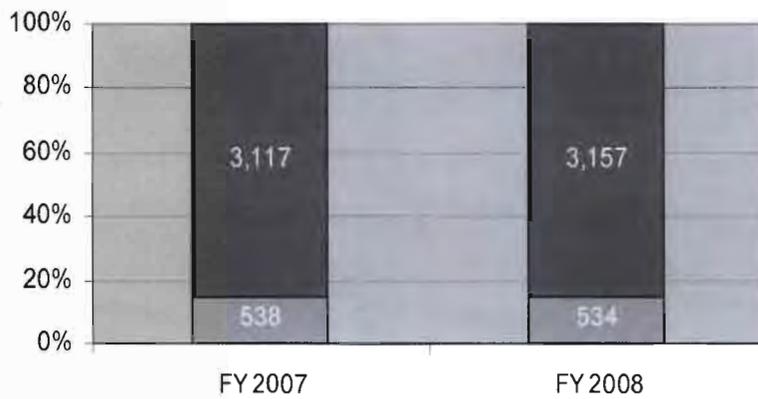




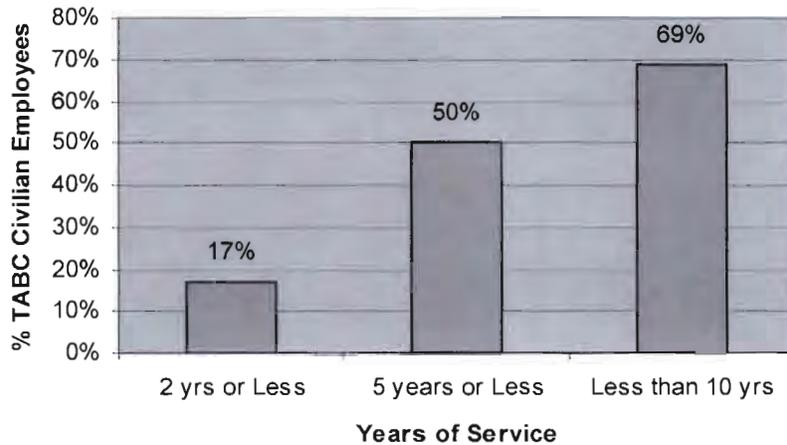
**Days Required to Approve an Original Application  
Originating in the Field  
September 2007 - June 2008**



**Administrative Cases by Method of  
Settlement  
September - May**



### Turnover - TABC Civilian Employees



### KEY PERFORMANCE MEASURES END OF 3RD QUARTER - FY 2008

Division/Key Measure	Actual Result	Annual Goal	% Goal Obtained
<b>Enforcement Division</b>			
Number of Inspections	98,918	128,000	77.28%
Percent of Licensed Locations Inspected	76.57%	78.50%	97.54%
Average Cost Per Inspection	\$163.38	\$175.00	93.36%
<b>Compliance &amp; Tax Divisions</b>			
Number of Compliance Activities	122,497	132,000	92.80%
Percent of Compliance Activities Resulting in Administrative or Compliance Actions	19.50%	34.00%	57.37%
Average Cost Per Compliance Activity	\$26.26	\$45.41	57.83%
<b>Ports of Entry</b>			
Number of Alcoholic Beverage & Cigarette Containers Stamped	2,270,646	5,500,000	41.28%
<b>Licensing Division</b>			
Number of Licenses & Permits Issued	75,798	100,000	75.80%
Percent of Original Applications Processed in 14 Days	98.18%	99.00%	99.17%
Average Cost Per Application Processed	\$22.73	\$24.22	93.85%

# **Attachment 3**

**2009 Operating Budget**

# OPERATING BUDGET 2009



## SUMMARY BY DIVISION

	<u>FY 2009</u>
<b>A.1.1. Enforcement</b>	
<b>Enforcement</b>	<b>\$21,578,328</b>
<b>Office of Professional Responsibility</b>	<b>259,210</b>
<b>Grants</b>	<b>781,450</b>
<b>Allocated Costs: Legal Services</b>	<b>516,238</b>
<b>Allocated Costs: Agency Wide Costs</b>	<b>39,142</b>
<b>Total, Enforcement</b>	<b><u>\$23,174,368</u></b>

## LICENSING

### B.1.1. Licensing and Investigation

Licensing	\$2,111,170
Contingency Appropriation for SB 1217	219,759
Allocated Costs: Legal Services	361,366
Allocated Costs: Agency Wide Costs	<u>6,281</u>
Total, Licensing	<u>\$2,698,576</u>

## COMPLIANCE

### C.1.1. Business Compliance

Compliance	\$5,594,282
Tax Division	381,846
Allocated Costs: Legal Services	154,871
Allocated Costs: Agency Wide Costs	<u>14,650</u>
Total, Compliance	<u>\$6,145,649</u>

## PORTS OF ENTRY

### C.2.1. Ports of Entry

<b>Ports of Entry</b>	<b>\$3,725,540</b>
<b>Anzalduas Bridge</b>	<b>87,950</b>
<b>Allocated Costs: Agency Wide Costs</b>	<b><u>12,455</u></b>
<b>Total, Ports of Entry</b>	<b><u>\$3,825,945</u></b>

## CENTRAL ADMINISTRATION

### D.1.1. Central Administration

<b>Executive</b>	<b>\$596,186</b>
<b>General Counsel</b>	<b>205,955</b>
<b>Human Resources</b>	<b>500,620</b>
<b>Fiscal</b>	<b>661,992</b>
<b>Allocated Costs: Agency Wide Costs</b>	<b><u>3,272</u></b>
<b>Total, Central Administration</b>	<b><u>\$1,968,025</u></b>

## INFORMATION RESOURCES

### D.1.2. Information Resources

<b>Information Resources</b>	<b>\$1,260,251</b>
<b>Other Hardware/Software Acquisitions</b>	<b>187,000</b>
<b>Data Center Consolidation Project</b>	<b>620,000</b>
<b>Allocated Costs: Agency Wide Costs</b>	<b><u>2,302</u></b>
<b>Total, Information Resources</b>	<b><u>\$2,069,553</u></b>

## OTHER SUPPORT

### D.1.3. Other Support Services

<b>General Services</b>	<b>\$611,603</b>
<b>Education/Prevention</b>	<b>298,259</b>
<b>Seller Training</b>	<b>177,586</b>
<b>Allocated Costs: Agency Wide Costs</b>	<b><u>4,111</u></b>
<b>Total, Other Support Services</b>	<b><u>\$1,091,559</u></b>
<b>Total, Texas Alcoholic Beverage Commission</b>	<b><u>\$40,973,675</u></b>

**SUMMARY by OBJECT of EXPENSE  
FY2009 Operating Budget**

▪ 1001 Salaries and Wages	\$30,622,256
▪ 1002 Other Personnel Costs	1,227,000
▪ 2001 Professional Fees	789,668
▪ 2002 Fuels and Lubricants	913,649
▪ 2003 Consumables	293,852
▪ 2004 Utilities	354,138
▪ 2005 Travel	690,152
▪ 2006 Building Rent	1,989,973
▪ 2007 Rent-Machine and Other	131,849
▪ 2009 Other Operating	3,034,271
▪ 4000 Grants	232,410
▪ 5000 Capital	<u>694,457</u>
▪ Total Budget	\$40,973,675

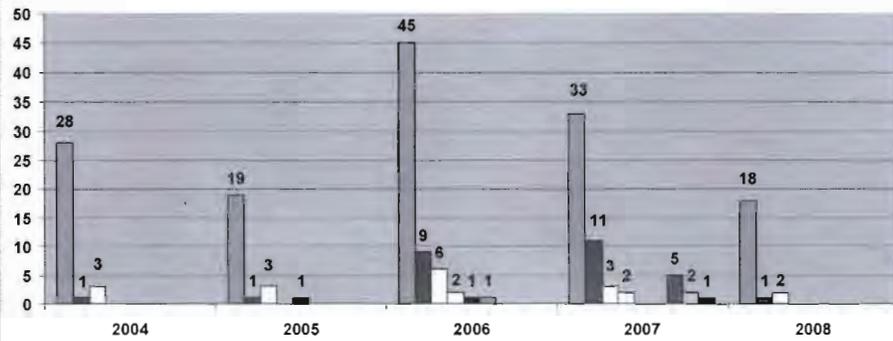


# **Attachment 4**

**Office of Professional Responsibility Update**

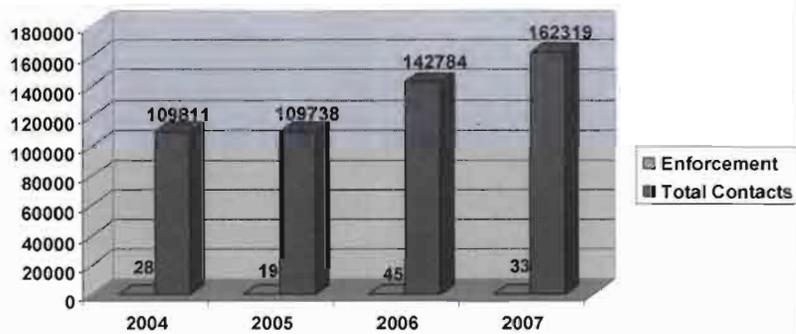
# Unprofessional Conduct Complaints by Division

Unprofessional Conduct Complaints by Division



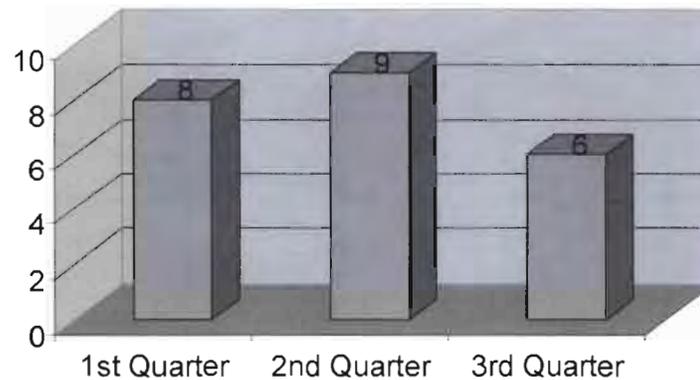
# Enforcement Unprofessional Conduct

Enforcement Unprofessional Conduct Complaints vs. Public Contacts



## Unprofessional Conduct - 2008

Unprofessional Conduct Complaints 2008



## Recommendations

- ◆ Conduct classes to all Agency personnel in *verbal communication skills*. Especially those employees that routinely come in contact with the public.
- ◆ During in-service training, include a class on Human Resource Policy and highlight Chapter 3, Professional Conduct.



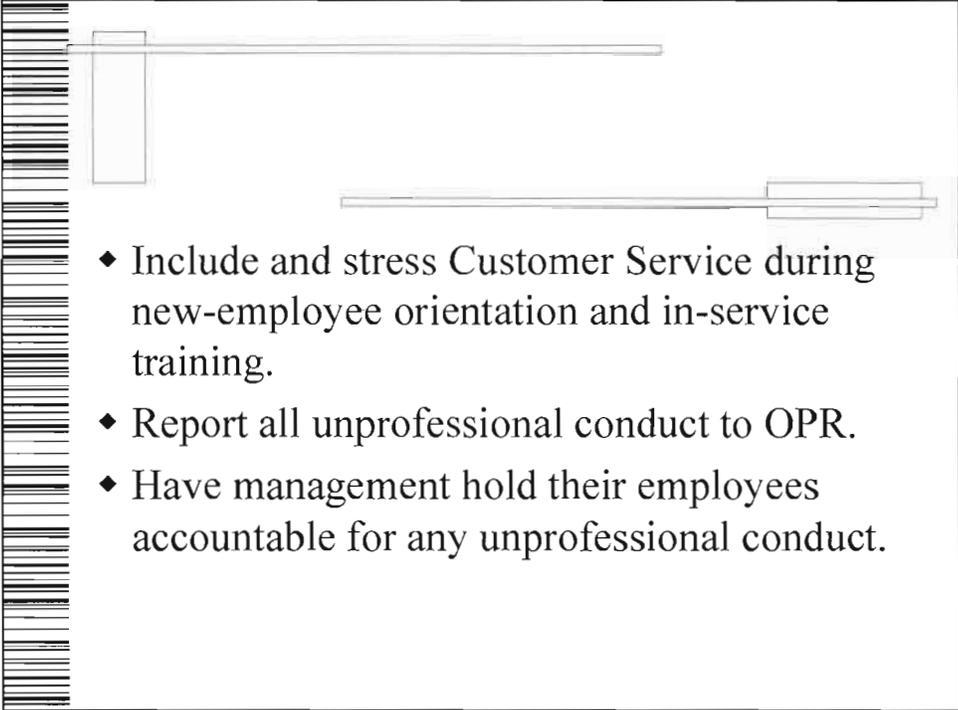
## Recommendations

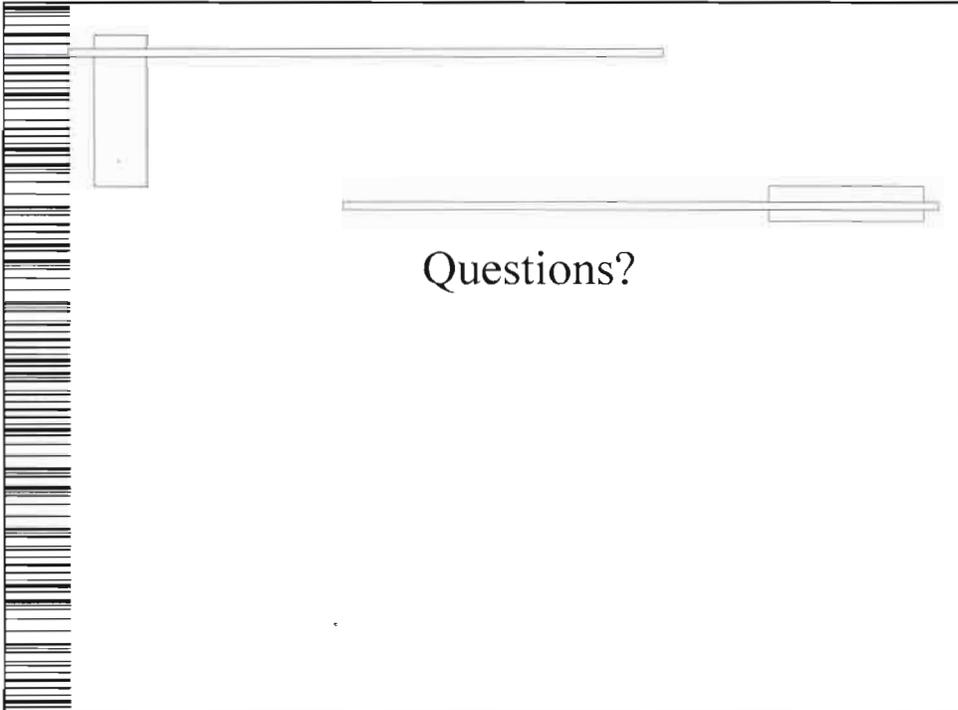
- ◆ Identify employees that have sustained or not sustained complaints for unprofessional conduct and have them attend additional training in human relations related courses.



## Recommendations

- ◆ Have management routinely reinforce the following:
  - The Agency's Mission Statement
  - The Agency's Vision Statement
  - The Agency's Philosophy Statement
  - The Agency's Guiding Principle Statement
  - The Agency's Four Corner Stones

- 
- ◆ Include and stress Customer Service during new-employee orientation and in-service training.
  - ◆ Report all unprofessional conduct to OPR.
  - ◆ Have management hold their employees accountable for any unprofessional conduct.



Questions?

# **Attachment 5**

**Proposed New Rules on Complaints**

## PROPOSED NEW §31.10

### §31.10. Filing a Complaint.

(a) This section relates to §5.53 of the Texas Alcoholic Beverage Code (Code), which requires the Texas Alcoholic Beverage Commission (commission) to adopt a rule to define the agency's complaint process from the time a complaint is received until the complaint is resolved.

(b) The public, consumers, commission and persons and entities regulated by the commission may file a complaint against an individual or entity holding a license, permit or certificate issued by the commission.

(1) A complaint may be submitted anonymously. If the complainant wishes to be informed of the resolution of the complaint the complainant must provide contact information.

(2) A complaint may be submitted: in writing to the Texas Alcoholic Beverage Commission, P.O. Box 13127, Austin, Texas 78711-3127; in person at any TABC office; by phone at (512) 206-3333 or the phone number of the nearest TABC office, or by electronic mail at [complaints@tabc.state.tx.us](mailto:complaints@tabc.state.tx.us).

(c) A written complaint form, instructions on how and where to file a complaint and a list of local TABC offices may be found on the commission's public website at [www.tabc.state.tx.us](http://www.tabc.state.tx.us). A complainant can also request that a form and instructions be mailed to a complainant by calling the commission at (512) 206-3333, or a local TABC office. A complainant may also file a complaint on plain paper without using the form by providing the following information:

(1) Complainant name and how the complainant may be contacted if they wish to be notified of the outcome or resolution of the complaint.

(2) The name or identity of the individual or entity being complained about and how the commission may find or contact the individual or locate the entity. This may include physical, mailing and e-mail address, phone numbers and persons with whom the complainant has contacted or spoken with regarding the complaint.

(3) A brief statement of the nature of the complaint and relevant facts, including the names of persons with knowledge, times, dates and location.

(4) If the complainant has documents or records related to the complaint, a copy of these should be attached to the complain. Do not send original records with a complaint.

## **PROPOSED NEW §31.11**

### **§31.11. Resolution and Information on Complaints.**

(a) The commission investigates all complaints. The time and resources allocated to an investigation will be based on facts stated in the complaint. Complaints alleging conduct that presents a serious risk to the public health and safety will be given priority.

(b) If an investigation results in a finding that a provision of the Code or commission rules has been or may have been violated, the commission may proceed with an action to cancel, suspend or refuse to issue a permit or license under Chapters 11 and 61 of the Code, and the complainant will be informed if contact information is provided.

(c) If an investigation results in a finding that no violation of the Code or commission rules has occurred, the complainant will be informed of this result if contact information has been provided.

(d) General information and the nature and disposition of complaints can be accessed on the TABC public website at [www.tabc.state.tx.us](http://www.tabc.state.tx.us).

(e) The public can access the violation history of a license or permit issued by the commission on the TABC public website at [www.tabc.state.tx.us](http://www.tabc.state.tx.us).

(f) Information about a specific complaint against an individual or entity holding a license, permit or certificate issued by the commission may be obtained by filing a request under the Texas Public Information Act (TPIA). Some information in a complaint or investigation of a complaint may not be subject to disclosure under the TPIA.

# **Attachment 6**

**Rules Relating to Sanctions and Penalties**

PROPOSED REPEAL OF CURRENT RULE

**PENALTIES**

**§37.60. Standard Penalty Chart.**

(a) Agents, compliance officers or other specifically designated commission personnel may offer settlements to persons charged with violating the provisions of the Alcoholic Beverage Code or rules of the commission. Settlement of those cases, unless otherwise provided for elsewhere in this rule, shall be in compliance with the following standard penalty chart.

HEALTH, SAFETY AND WELFARE VIOLATIONS

DESCRIPTION	1st Violation	2nd Violation	3rd Violation
Minor Related Offenses			
Employing a minor to sell, serve, prepare or otherwise handle alcoholic beverages in violation of §106.09 or §61.71(a)(12), Alcoholic Beverage Code.	5-7	10-12	30-Cancel
Permit a minor to possess or consume an alcoholic beverage in violation of §106.13, Alcoholic Beverage Code.	7-15	10-90 Per §106.13	60-Cancel
Sale of an alcoholic beverage to a minor in violation of §106.03, Alcoholic Beverage Code.	7-20	10-90 Per §106.13	60-Cancel
Conducting business in a manner as to allow a simple breach of the peace with no serious bodily injury or deadly weapon involved (as defined in the Texas Penal Code) in violation of §§22.12 and 28.11, Alcoholic Beverage Code.	10-15	15-20	30-Cancel
Conducting business in a manner as to allow an aggravated breach of the peace with a serious bodily injury or involving a deadly weapon (as defined in the Texas Penal Code) in violation of §§22.12, 28.11, 69.13 and 71.09, Alcoholic Beverage Code.	45-Cancel	60-Cancel	Cancel
Failure to report a breach of the peace in violation of Alcoholic Beverage Code §§11.61(b)(21), 61.71(a)(31).	Warning-5	7-10	25-Cancel
Possession of narcotics by a licensee or permittee in violation of §104.01, Alcoholic Beverage Code, or Title 16, §35.41(27), Texas Administrative Code.	21-Cancel	45-Cancel	Cancel
Possession of narcotics by an employee or agent of a licensee or permittee in violation of §104.01, Alcoholic Beverage Code, or Title 16, §35.41(27), Texas Administrative Code.	10-21	21-45	45-Cancel

DESCRIPTION	1st Violation	2nd Violation	3rd Violation
The sale or delivery or permitting the sale or delivery of narcotics by a licensee or permittee in violation of §104.01, Alcoholic Beverage Code and Title 16, §35.41(27), Texas Administrative Code.	Cancel		
The sale or delivery or permitting the sale or delivery of narcotics by an employee or agent of a licensee or permittee in violation of §104.01, Alcoholic Beverage Code or Title 16, §35.41(27), Texas Administrative Code.	30-Cancel	60-Cancel	Cancel
The sale, delivery or possession of any equipment used or designed for the administering of a narcotic by the license or permit holder in violation of §104.01, Alcoholic Beverage Code.	15-20	25-30	30-Cancel
The sale, delivery or possession of any equipment used or designed for the administering of a narcotic by the employee of any license or permit holder in violation of §104.01, Alcoholic Beverage Code.	10-15	20-25	30-Cancel
The sale or service of an alcoholic beverage to an intoxicated person in violation of §§11.61(b)(14), 61.71(a)(6) or 101.63, Alcoholic Beverage Code.	10-15	15-30	30-Cancel
The license or permit holder or any employee being intoxicated on a licensed premise in violation of §11.61(b)(13) or §104.01, Alcoholic Beverage Code.	10-15	15-30	30-Cancel
Permitting public lewdness, sexual contact or obscene acts on a licensed premises in violation of §61.71(a)(11) or §104.01, Alcoholic Beverage Code and commission rule, §35.41(1) or the exposure of a person or permitting a person to expose his person in violation of §104.01(2), Alcoholic Beverage Code.	10	15-20	30-Cancel
Creating excessive noise or having unsanitary conditions at a licensed premises in violation of §101.62 or §11.61(b)(9), Alcoholic Beverage Code.	Warning-3	5-7	15-Cancel
Consumption or permitted consumption of an alcoholic beverage during prohibited hours on a licensed premises in violation of §61.71(a)(18) or §105.06, Alcoholic Beverage Code.	5	7-10	25-Cancel
Rudely displaying or permitting a person to rudely display a weapon in a retail establishment in violation of §104.01(3), Alcoholic Beverage Code.	7	20-30	60-Cancel

DESCRIPTION	1st Violation	2nd Violation	3rd Violation
<p>The place and manner of operation of an establishment is such that it constitutes a violation of §§11.46 (a)(8), 11.61(b)(7), 61.42(a)(3) or 61.71(a)(17), Alcoholic Beverage Code by committing the below listed violations. Requires detail on offenses.</p> <p>Examples (not limited to the following offenses):            Possession of any gambling paraphernalia or device;            Gambling on a licensed premises;            Keeping a gambling place;            Bribery;            Prostitution;            Promotion of prostitution;            Employment harmful to a minor;            Obscenity;            Misuse of food stamps.</p>	15-Cancel		
Violation of city codes (relating to health, safety and welfare).	Warning-10	15-25	30-Cancel

#### MAJOR REGULATORY VIOLATIONS

DESCRIPTION	1st Violation	2nd Violation	3rd Violation
Refusing to allow an inspection of a licensed premises or interfering with an inspection of a licensed premises in violation of §§32.17(a)(2), 61.71(a)(14), 61.74(a)(7) or 101.04, Alcoholic Beverage Code.	10 Employee	10-15	45-Cancel
	20 Permittee	25-30	45-Cancel
Operating an establishment as an illegal open saloon in violation of §32.17(a)(1) or §32.01(2), Alcoholic Beverage Code.	5	7-10	25-Cancel
Sell, serve or deliver alcoholic beverages during prohibited hours in violation of §105.01, et seq, Alcoholic Beverage Code.	5	7-10	25-Cancel
Selling wine over 17% alcohol content during prohibited hours in violation of §24.07, Alcoholic Beverage Code.	3	5-10	10-25
Sale of alcoholic beverages while serving a suspension in violation of §§11.68, 61.71(a)(22) or 61.84, Alcoholic Beverage Code.	Original suspension plus 5-10	Original suspension plus 25-Cancel	Cancel

DESCRIPTION	1st Violation	2nd Violation	3rd Violation
Subterfuge - Permitting another person to use a license or permit other than the one it is issued to in violation of §11.05 and §109.53, Alcoholic Beverage Code.	Cancel		
Possession of distilled spirits without local distributor stamps on the container in violation of §28.15 or §32.20, Alcoholic Beverage Code.	Warning-10	10-15	Cancel
Possession of an empty distilled spirits container with the local distributor stamp not mutilated in violation of agency rule §41.72.	Warning-5	15-20	30-Cancel
Possession of any uninvoiced alcoholic beverages in violation of §28.06 and §32.08, Alcoholic Beverage Code and agency rule §41.50.	10 Employee 15 Permittee	15-20	30-Cancel
Knowingly possess uninvoiced alcoholic beverages in violation of §28.06, Alcoholic Beverage Code and agency rule §41.50 or refilling distilled spirits bottles in violation of §28.08, Alcoholic Beverage Code.	Cancel	Cancel	Cancel
Sale of any unauthorized alcoholic beverage in violation of §11.01, Alcoholic Beverage Code.	10	15-45	60-Cancel
Possession of any unauthorized alcoholic beverage by a licensee or permittee or his employee in violation of §§69.12 or 61.71(a)(9), Alcoholic Beverage Code.	3 Employee 5 Permittee/ Licensee	7-10 Employee 10-15 Permittee/ Licensee	15-25 Employee 25-30 Permittee/ Licensee
Consumption of or permitting consumption of an alcoholic beverage on the premises of any off-premise license or permit in violation of §§22.10, 22.11, 26.01 or 71.01, Alcoholic Beverage Code.	3 Employee 5 Permittee/ Licensee	7-10 Employee 10-15 Permittee/ Licensee	15-30 Employee 20-30 Permittee/ Licensee
Permitting an open container on the premises of any off-premise license or permit in violation of §§71.01 or 24.09, Alcoholic Beverage Code.	3	7-10	15-30
Purchase of an alcoholic beverage from an unauthorized source in violation of §§61.71(a)(19), 61.71(a)(20), 69.09 or 71.05, Alcoholic Beverage Code.	3	7-10	15-30
Sale of an alcoholic beverage by a retailer for the purpose of resale in violation of §71.05, Alcoholic Beverage Code.	5	10-15	15-30

DESCRIPTION	1st Violation	2nd Violation	3rd Violation
Purchasing alcoholic beverages while on the "delinquent list" in violation of §102.32(d), Alcoholic Beverage Code.	5	10-15	15-30
Selling an alcoholic beverage away from a licensed premise.	7	10-15	15-45
Storage of alcoholic beverages off a licensed premises in violation of §69.10, Alcoholic Beverage Code.	5	10-15	20-30
Making false or misleading statements in original or renewal applications or making false or misleading statements in documents submitted with or attached to applications for licenses or permits in violation of §§11.46(4), 61.71(a)(4) or 61.74(a)(11), Alcoholic Beverage Code.	Cancel		
Sale or delivery of alcoholic beverages to a non-licensed business in violation of manufacturing and wholesaler sections of the Alcoholic Beverage Code.	3	10-15	25-30
Sale to a permittee who is on the delinquent list, failure to timely collect credit payments, or failure to report credit law violations; Failure to notify the commission of a delinquent account in violation of §102.32, Alcoholic Beverage Code; Failure to report cash law violations or failure to sell beer for cash in violation of §102.31, Alcoholic Beverage Code.	Warning-5	10-15	25-30
Improper record keeping in violation of agency rules §§41.50, 41.51, 41.52 and §§32.03, 32.06, Alcoholic Beverage Code, including invoices, membership records, pool and replacement accounts.	Warning-3	3-5	5-7
Knowingly filed false report or record.	Cancel		
Knowingly failed to keep record or file return in manner required.	5-10	20-30	35-Cancel
Retail cash/credit laws violation of cash or credit laws by retail licensee or permittee in violation of §§61.73, 102.31 or 102.32.	Warning-3	3	5-10
Failed to present program curriculum as approved. §50.4(g).	Warning-3	5-7	15-Cancel
Program taught in ineffective manner. §50.4.	Warning-3	5-7	15-Cancel
Failed to use certified trainer. §50.6(a).	10-15	21-Cancel	Cancel
Had more than 50 trainees in a session. §50.4(e).	Warning-3	5-10	21-30

DESCRIPTION	1st Violation	2nd Violation	3rd Violation
Failure to schedule sessions or cancel sessions in a timely manner. §50.4(a).	Warning-3	5-7	10-20
Failure to properly test. §50.4(j)-(n).	Warning-3	5-10	Cancel
Certifying a trainee who had not successfully completed a full session and/or passed the final test. §50.5(b)(2).	15-30	30-Cancel	
Licensee/Permittee programs certifying non-employees. §50.4(d).	Warning-3	5-7	10-20
Failed to distribute certificates to trainees. §50.4(r).	Warning-3	5-10	21-30
Trainer taught in a language that was not authorized. §50.6(a).	Warning -3	5-10	21-30
Violation of requirements for school/program approval. §50.3(a)-(h).	Cancel		
Violated a provision of Section 50.5(b) (Program). §50.5(b).	Cancel		
Violated a provision of Section 50.7 (Trainer). §50.7.	Cancel		
Make false or misleading statements, reports, or representations to the Commission. §50.5(b)(2).	7-14	21-30	Cancel
Failure to timely file or properly prepare the report of seller training. §50.5(b)(4).	3-5	7-10	Cancel
Failure to properly prepare and issue certificates. §50.4(r).	Warning-3	5-10	Cancel

(b) Each suspension of a permit or license shall run for consecutive days. An alcoholic beverage licensee or permittee penalized by the commission may pay a civil penalty in lieu of a suspension as provided by Alcoholic Beverage Code, § 11.64, but no licensee or permittee may pay a civil penalty in lieu of a fraction of its suspension. In other words, any penalty assessed must be either a suspension or a civil penalty, but not a combination of both.

(c) A repeat violation by a licensee or permittee justifies the penalty for a second or third violation if it is a health, safety and welfare violation and occurs within 36 months of the first violation and if it is a major regulatory violation within 24 months of the first violation.

(d) A penalty for an alleged repeat violation shall not be assessed unless the alleged violation occurs after the permittee or licensee, as those terms are defined in the Texas Alcoholic Beverage Code, § 1.04(11), has been notified, in writing, of the first alleged violation. Notwithstanding the preceding sentence, if an alleged violation is discovered during an undercover operation, then no notice of any prior alleged violations may be necessary to assess a penalty for a repeat violation. The requirement that written notice be given to a permittee or licensee shall not be interpreted to require that a notice of hearing for the violation be delivered to the permittee or licensee.

(e) The list of violations in the standard penalty chart is not an exclusive list of violations of the Texas Alcoholic Beverage Code or rules of the commission. The administrator or his designee is authorized to assess penalties for any violation of any of the foregoing statutes or rules for which a penalty is not provided on the chart. Any penalty assessed for a violation not

provided for on the standard penalty chart shall be approved by either the chief of enforcement or the director of the regulatory division prior to its assessment.

(f) Any person responsible for assessing a penalty for a violation may deviate from the standard penalty chart if aggravating or mitigating circumstances are involved. If a recommendation deviating from the standard penalty chart is made, it must be made in writing and be filed with the case report. Final approval shall be made by the administrator or his designee.

(g) The standard penalty chart does not bind a hearing examiner, the administrator, or his designee as to penalties for any violation determined to have occurred by the facts presented in an administrative hearing and the record of that proceeding shall be the determining factor as to the sufficiency of the penalty assessed.



## PROPOSED NEW CHAPTER FOR ADOPTION

### TEXAS ALCOHOLIC BEVERAGE COMMISSION

#### CHAPTER 34. SCHEDULE OF SANCTIONS AND PENALTIES

##### **§34.1. General Provisions.**

(a) This rule relates to §§11.61, 11.64, 11.641 and 106.13 of the Alcoholic Beverage Code.

(b) Agents, compliance officers or other specifically designated commission personnel have authority to settle a complaint issued by the commission against a person for a violation of the Texas Alcoholic Beverage Code (Code), prior to filing a contested case under Government Code, Chapter 2001, Subchapter C (Administrative Procedure Act).

(c) A settlement authorized by this chapter must reflect the number of days a permit will be suspended or the amount of civil penalty authorized per day in lieu of suspension and shall conform to the other provisions of this chapter.

(d) A written warning may be issued for any violation if it is determined by designated commission personnel, to be an effective deterrent from further violations of the Code.

(1) A written warning may be used as an aggravating circumstance for purposes of determining the appropriate sanction under §34.2.

(2) A written warning is subject to the rights and procedures of a contested case under the Administrative Procedure Act.

(3) A written warning is an administrative notice issued by a representative of the commission to the permit or license holder documenting that a violation of the TABC code or rules has occurred.

(e) Any case alleging a sale to a minor or intoxicated person in violation of Alcoholic Beverage Code §§11.61(b)(14), 61.71(a)(6) or 101.63 in which the unlawful sale or service directly or indirectly caused death or serious bodily injury shall be referred directly to the Legal Services Division by district or regional personnel without an offer of settlement or compromise provided to the permittee/licensee. For purposes of this section, "serious bodily injury" means as defined in §1.07(a)(46) of the Texas Penal Code.

(f) Each suspension of a permit or license shall run for consecutive days. A person assessed a suspension by the commission may be provided with an opportunity to pay a civil penalty in lieu of a suspension as provided by §11.64 of the Code. The commission may, in its discretion, allow a licensee/permittee to divide an imposed sanction between civil penalty and suspension.

(g) A subsequent violation of the Code or rule will result in a sanction in the next higher violation level if the subsequent violation:

(1) is for a health, safety and welfare violation and occurs within 36 months of the prior violation, or

(2) is for a violation listed in the major regulatory violation category within 24 months of the prior violation, and

(3) the person has been given written notice of the prior violation, or

(4) the subsequent violation is issued during an undercover operation

(h) The list of violations in §34.2 is not intended to be an exhaustive list of possible violations of the Code or rules of the commission. A sanction for a violation of the Code or rules that is not listed in §34.2 must be approved by either the assistant administrator for field operations or a division director prior to entering into a settlement.

(i) A person authorized to enter into a settlement under this section is also authorized to recommend a deviation from sanctions in §34.2 when aggravating or mitigating circumstances are found to exist.

(1) A recommendation to deviate from sanctions in §34.2 must be made in writing.

(2) The administrator or his designee must approve a recommendation to deviate from §34.2 before the settlement may be offered.

(j) This section does not apply to a contested case brought under Chapters C and D of the Administrative Procedure Act, or a complaint or violation referred to the legal division of the commission for resolution.

### 34.2. Schedule of Sanctions and Penalties for Health, Safety and Welfare Violations.

An act or failure to act which results in a violation of the code or rules that represents a threat to the public health, safety, or welfare will be assessed sanctions and penalties as follows:

DESCRIPTION	1st Violation	2nd Violation	3rd Violation
Minor Related Offenses			
Employing a minor to sell, serve, prepare or otherwise handle alcoholic beverages in violation of §106.09 or §61.71(a)(12), Alcoholic Beverage Code.	5-7 days \$300 per day	10-14 days \$300 per day	30-Cancel \$300 per day
Permit a minor to possess or consume an alcoholic beverage in violation of §106.13, Alcoholic Beverage Code.	3-5 days \$300 per day	6-10 days \$300 per day	18-Cancel \$300 per day
Sale of an alcoholic beverage to a minor in violation of §106.03, Alcoholic Beverage Code.	8-12 days \$300 per day	16-24 days \$300 per day	48-Cancel \$300 per day
Conducting business in a manner as to allow a simple breach of the peace with no serious bodily injury or deadly weapon involved (as defined in the Texas Penal Code) in violation of §§22.12 and 28.11, Alcoholic Beverage Code.	3-5 days \$300 per day	6-10 days \$300 per day	18-Cancel \$300 per day
Conducting business in a manner as to allow an aggravated breach of the peace with a serious bodily injury, death or involving a deadly weapon (as defined in the Texas Penal Code) in violation of §§22.12, 28.11, 69.13 and 71.09, Alcoholic Beverage Code.	25-35 days \$300 per day	Cancel	Cancel
Failure to report a breach of the peace in violation of Alcoholic Beverage Code §§11.61(b)(21), 61.71(a)(31).	2-5 days \$300 per day	4-10 days \$300 per day	12-Cancel \$300 per day

DESCRIPTION	1st Violation	2nd Violation	3rd Violation
Possession of, sale or delivery of, or permitting the sale or delivery of narcotics by a licensee or permittee or possession of any equipment used or designed for the administering of a narcotic in violation of §104.01, Alcoholic Beverage Code, or Title 16, §35.41(27), Texas Administrative Code.	25-35 days \$300 per day	Cancel	Cancel
The sale or service of an alcoholic beverage to an intoxicated person in violation of §§11.61(b)(14), 61.71(a)(6) or 101.63, Alcoholic Beverage Code.	8-12 days \$300 per day	16-24 days \$300 per day	Cancel
The license or permit holder or any employee being intoxicated on a licensed premise in violation of §11.61(b)(13) or §104.01, Alcoholic Beverage Code.	17-25 days \$300 per day	34-50 days \$300 per day	Cancel
Permitting public lewdness, sexual contact or obscene acts on a licensed premises in violation of §61.71(a)(11) or §104.01, Alcoholic Beverage Code and commission rule, §35.41(1) or the exposure of a person or permitting a person to expose his person in violation of §104.01(2), Alcoholic Beverage Code.	5-7 days \$300 per day	10-14 days \$300 per day	Cancel
Creating excessive noise or having unsanitary conditions at a licensed premises in violation of §101.62 or §11.61(b)(9), Alcoholic Beverage Code.	3-5 days \$300 per day	6-10 days \$300 per day	18-30 days \$300 per day
Sell, serve or deliver alcoholic beverages during prohibited hours in violation of §105.01, et seq, Alcoholic Beverage Code. Consumption or permitted consumption of an alcoholic beverage during prohibited hours on a licensed premises in violation of §§11.61(b)(22), 61.71(a)(18) or 105.06, Alcoholic Beverage Code.	5-7 days \$300 per day	10-14 days \$300 per day	Cancel
Rudely displaying or permitting a person to rudely display a weapon in a retail establishment in violation of §104.01(3), Alcoholic Beverage Code.	5-7 days \$300 per day	10-14 days \$300 per day	30-Cancel \$300 per day

DESCRIPTION	1st Violation	2nd Violation	3rd Violation
<p>The place and manner of operation of an establishment is such that it constitutes a violation of §§11.46 (a)(8), 11.61(b)(7), 61.42(a)(3) or 61.71(a)(17), Alcoholic Beverage Code by committing the below listed violations. Requires detail on offenses.</p> <p>Examples (not limited to the following offenses):            Possession of any gambling paraphernalia or device;            Gambling on a licensed premises;            Keeping a gambling place;            Prostitution;            Promotion of prostitution;            Prohibited Activities by Persons Younger Than 18 (See AB Code 106.15, Penal Code 43.05, Penal Code 43.25 or Penal Code 43.251);            Obscenity.</p>	<p>5-7/\$300            8-12/\$300            13-18/\$300            5-7/\$300            13-18/\$300            Cancel            8-12/\$300</p>	<p>10-14/\$300            16-24/\$300            26-36/\$300            10-14/\$300            26-36/\$300            Cancel            16-24/\$300</p>	<p>Cancel            Cancel            Cancel            Cancel            Cancel            Cancel            Cancel</p>
Violation of city codes (relating to health, safety and welfare).	3-5 days \$300 per day	6-10 days \$300 per day	18-Cancel \$300 per day

**§34.3 Schedule of Sanctions and Penalties for Major Regulatory Violations.**

An act or failure to act which results in a violation of a major regulatory provision of the code or rules will be assessed sanctions and penalties as follows:

DESCRIPTION	1st Violation	2nd Violation	3rd Violation
Refusing to allow an inspection of a licensed premises or interfering with an inspection of a licensed premises in violation of §§32.17(a)(2), 61.71(a)(14), 61.74(a)(7) or 101.04, Alcoholic Beverage Code.	8-13 days \$300 per day	16-26 days \$300 per day	Cancel
Operating an establishment as an illegal open saloon in violation of §32.17(a)(1) or §32.01(2), Alcoholic Beverage Code.	5-7 days \$300 per day	10-14 days \$300 per day	Cancel
Selling wine over 17% alcohol content during prohibited hours in violation of §24.07, Alcoholic Beverage Code.	3-5 days \$300 per day	6-10 days \$300 per day	18-30 days \$300 per day

DESCRIPTION	1st Violation	2nd Violation	3rd Violation
Sale of alcoholic beverages while serving a suspension in violation of §§11.68, 61.71(a)(22) or 61.84, Alcoholic Beverage Code.	Original suspension plus 8-13 days \$300 per day	Original suspension plus 16-26 days \$300 per day	Cancel
Subterfuge – Permitting another person to use a license or permit other than the one it is issued to in violation of §11.05 and §109.53, Alcoholic Beverage Code.	Cancel		
Possession of distilled spirits without local distributor stamps on the container in violation of §28.15 or §32.20, Alcoholic Beverage Code.	6-8 days \$300 per day	12-16 days \$300 per day	Cancel
Possession of an empty distilled spirits container with the local distributor stamp not mutilated in violation of agency rule §41.72.	3-5 days \$300 per day	6-10 days \$300 per day	Cancel
Possession of any uninvoiced alcoholic beverages in violation of §28.06 and §32.08, Alcoholic Beverage Code and agency rule §41.50.	8-13 days \$300 per day	16-26 days \$300 per day	Cancel
Knowingly possess uninvoiced alcoholic beverages in violation of §28.06, Alcoholic Beverage Code and agency rule §41.50 or refilling distilled spirits bottles in violation of §28.08, Alcoholic Beverage Code.	Cancel		
Sale of any unauthorized alcoholic beverage in violation of §11.01, Alcoholic Beverage Code.	8-13 days \$300 per day	16-26 days \$300 per day	Cancel
Possession of any unauthorized alcoholic beverage by a licensee or permittee or his employee in violation of §§69.12 or 61.71(a)(9), Alcoholic Beverage Code.	3-5 days \$300 per day	6-10 days \$300 per day	Cancel
Consumption of or permitting consumption of an alcoholic beverage on the premises of any off-premise license or permit in violation of §§22.10, 22.11, 26.01 or 71.01, Alcoholic Beverage Code.	3-5 days \$300 per day	6-10 days \$300 per day	Cancel
Permitting an open container on the premises of any off-premise license or permit in violation of §§71.01 or 24.09, Alcoholic Beverage Code.	3-5 days \$300 per day	6-10 days \$300 per day	18-30 days \$300 per day

DESCRIPTION	1st Violation	2nd Violation	3rd Violation
Purchase of an alcoholic beverage from an unauthorized source in violation of §§61.71(a)(19), 61.71(a)(20), 69.09 or 71.05, Alcoholic Beverage Code.	6-8 days \$300 per day	12-16 days \$300 per day	Cancel
Sale of an alcoholic beverage by a retailer for the purpose of resale in violation of §71.05, Alcoholic Beverage Code.	8-13 days \$300 per day	16-26 days \$300 per day	Cancel
Purchasing alcoholic beverages while on the "delinquent list" in violation of §102.32(d), Alcoholic Beverage Code.	5-7 days \$300 per day	10-14 days \$300 per day	Cancel
Selling an alcoholic beverage away from a licensed premises. §61.06	3-5 days \$300 per day	6-10 days \$300 per day	18-30 days \$300 per day
Storage of alcoholic beverages off a licensed premises in violation of §69.10, Alcoholic Beverage Code.	3-5 days \$300 per day	6-10 days \$300 per day	18-30 days \$300 per day
Making false or misleading statements in original or renewal applications or making false or misleading statements in documents submitted with or attached to applications for licenses or permits in violation of §§11.46(4), 61.71(a)(4) or 61.74(a)(11), Alcoholic Beverage Code.	Cancel		
Sale or delivery of unauthorized alcoholic beverages to a non-licensed business in violation of manufacturing and wholesaler sections of the Alcoholic Beverage Code. §§11.01, 19.01, 61.01 or 62.01	6-8 days \$300 per day	12-16 days \$300 per day	Cancel
Sale to a permittee who is on the delinquent list, failure to timely collect credit payments, or failure to report credit law violations; Failure to notify the commission of a delinquent account in violation of §102.32, Alcoholic Beverage Code; Failure to report cash law violations or failure to sell beer for cash in violation of §102.31, Alcoholic Beverage Code.	3-5 days \$300 per day	6-10 days \$300 per day	18-30 days \$300 per day
Improper record keeping in violation of agency rules §§41.49, 41.50, 41.51, 41.52 and §§32.03, 32.06, Alcoholic Beverage Code, including invoices, membership records, pool and replacement accounts.	2-4 days \$300 per day	4-8 days \$300 per day	12-24 days \$300 per day

DESCRIPTION	1st Violation	2nd Violation	3rd Violation
Knowingly filed false report, application, form, or record. §§11.61, 61.71, 62.05, 64.04, or 203.09	Cancel		
Knowingly failed to keep record or file return in manner required. §§61.71, 61.74, 62.05, 64.04, 203.09, or 206.01	6-12 days \$300 per day	12-24 days \$300 per day	Cancel
Retail cash/credit laws violation of cash or credit laws by retail licensee or permittee in violation of §§61.73, 102.31 or 102.32.	2-5 days \$300 per day	4-10 days \$300 per day	12-30 days \$300 per day
Failed to present program curriculum as approved. §50.4(g).	\$450-\$600	\$900-\$1,200	Cancel
Program taught in ineffective manner. §50.4.	\$450-\$600	\$900-\$1,200	Cancel
Failed to use certified trainer. §50.6(a).	\$2,250-\$3,000	\$4,500-\$6,000	Cancel
Had more than 50 trainees in a session. §50.4(e).	\$450-\$600	\$900-\$1,200	Cancel
Failure to schedule sessions or cancel sessions in a timely manner. §50.4(a).	\$450-\$600	\$900-\$1,200	\$2,700-\$3,600
Failure to properly test. §50.4(j)-(n).	\$1,500-\$2,250	\$3,000-\$4,450	Cancel
Certifying a trainee who had not successfully completed a full session and/or passed the final test. §50.5(b)(2).	\$450-\$600	\$900-\$1,200	\$2,700-\$3,600
Licensee/Permittee programs certifying non-employees. §50.4(d).	\$450-\$600	\$900-\$1,200	\$2,700-\$3,600
Failed to distribute certificates to trainees. §50.4(r).	\$450-\$600	\$900-\$1,200	\$2,700-\$3,600
Trainer taught in a language that was not authorized. §50.6(a).	\$450-\$600	\$900-\$1,200	\$2,700-\$3,600
Violation of requirements for school/program approval. §50.3(a)-(h).	Cancel		
Violated a provision of Section 50.5(b) (Program). §50.5(b).	Cancel		
Violated a provision of Section 50.7 (Trainer). §50.7.	Cancel		
Make false or misleading statements, reports, or representations to the Commission. §50.5(b)(2).	\$1,500-\$2,250	\$3,000-\$4,450	Cancel
Failure to timely file or properly prepare the report of seller training. §50.5(b)(4).	\$750-\$1,050	\$1,500-\$2,100	Cancel
Failure to properly prepare and issue certificates. §50.4(r).	\$450-\$600	\$900-\$1,200	Cancel



# **Attachment 7**

**Legislative Appropriations Request  
FY 2010-FY 2011**

**TEXAS ALCOHOLIC BEVERAGE  
COMMISSION**

**LEGISLATIVE APPROPRIATIONS  
REQUEST**

**FY 2010-2011**

**Legislative Appropriations Request  
FY 2010 – FY 2011**

<b>GR Base Request</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY10-11 Biennial Total</b>
A.1.1. Enforcement	\$22,518,603	\$22,518,603	\$45,037,206
B.1.1. Licensing & Investigation	4,113,515	4,113,515	8,227,030
C.1.1. Compliance Monitoring	5,288,569	5,288,569	10,577,138
C.2.1. Ports of Entry	3,851,806	3,851,806	7,703,612
D.1.1. Central Administration	2,306,273	2,306,273	4,612,546
D.1.2. Information Resources	1,907,323	1,907,323	3,814,646
D.1.3. Other Support Services	<u>619,059</u>	<u>619,059</u>	<u>1,238,118</u>
<b>Total, TABC GR Base Request</b>	<b><u>\$40,605,148</u></b>	<b><u>\$40,605,148</u></b>	<b><u>\$81,210,296</u></b>

## Exceptional Items

	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY10-11 Biennial Total</u>
<b>Total, TABC GR Base Request</b>	\$40,605,148	\$40,605,603	\$81,210,296
<b>GR Exceptional Item Request</b>			
Retention/Succession Plan	1,201,475	1,541,293	2,742,768
IT Automation Enhancements	2,657,004	771,719	3,428,723
Ports of Entry Expansion	652,937	574,643	1,227,580
Miscellaneous Cost Increases	346,124	346,124	692,248
<b>Total, GR Exceptional Item Request</b>	<u>\$4,857,540</u>	<u>\$3,233,779</u>	<u>\$8,091,319</u>
<b>Total, TABC GR Request</b>	<b>\$45,462,688</b>	<b>\$43,838,927</b>	<b>\$89,301,615</b>

## Method of Finance

	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY10-11 Biennial Total</u>
<b>General Revenue - Total Request</b>	\$45,462,688	\$43,838,927	\$89,301,615
EUDL Grant	350,000	350,000	700,000
Brazos County Grant	1,200	1,200	2,400
Spring Break Grant	130,000	130,000	260,000
Appropriated Receipts	<u>23,750</u>	<u>23,750</u>	<u>47,500</u>
<b>Total, TABC Request</b>	<b>\$45,967,638</b>	<b>\$44,343,877</b>	<b>\$90,311,515</b>

## SUMMARY by OBJECT of EXPENSE FY 2010-2011

	<u>FY2010</u>	<u>FY2011</u>
<b>1001 Salaries and Wages</b>	<b>\$30,528,188</b>	<b>\$30,528,188</b>
<b>1002 Other Personnel</b>	<b>1,313,294</b>	<b>1,313,294</b>
<b>2001 Professional Fees</b>	<b>618,441</b>	<b>618,441</b>
<b>2002 Fuels and Lubricants</b>	<b>732,450</b>	<b>732,450</b>
<b>2003 Consumables</b>	<b>280,466</b>	<b>280,466</b>
<b>2004 Utilities</b>	<b>345,398</b>	<b>345,398</b>
<b>2005 Travel</b>	<b>651,651</b>	<b>651,651</b>
<b>2006 Rent-Building</b>	<b>2,048,663</b>	<b>2,048,663</b>
<b>2007 Rent Machine and Other</b>	<b>131,849</b>	<b>131,849</b>
<b>2009 Other Operating</b>	<b>2,949,286</b>	<b>2,949,286</b>
<b>4000 Grants</b>	<b>0</b>	<b>0</b>
<b>5000 Capital</b>	<b><u>1,005,462</u></b>	<b><u>1,005,462</u></b>
<b>Total Budget Request*</b>	<b>\$40,605,148</b>	<b>\$40,605,148</b>

\* GR Amount Only

## SUMMARY of EXCEPTIONAL ITEMS by OBJECT of EXPENSE

	<u>FY2010</u>	<u>FY2011</u>
1001 Salaries and Wages	\$1,684,596	\$2,024,411
1002 Other Personnel	78,077	78,077
2001 Professional Fees	2,175,968	507,916
2002 Fuels and Lubricants	207,000	207,000
2003 Consumables	10,584	10,584
2004 Utilities	188,025	188,025
2005 Travel	66,414	66,414
2006 Rent-Building	40,433	40,433
2007 Rent Machine and Other	7,725	7,725
2009 Other Operating	107,255	23,111
4000 Grants	0	0
5000 Capital	<u>291,466</u>	<u>80,083</u>
<b>Total Exceptional Item Request</b>	<b>\$4,857,540</b>	<b>\$3,233,779</b>

**GENERAL REVENUE APPROPRIATION REQUEST  
for  
BIENNIUM FY2010-2011**

▪ <b>Base Request-General Revenue</b>	<b>\$81,210,296</b>
▪ <b>Exceptional Item Request-General Revenue</b>	<b><u>8,091,319</u></b>
▪ <b>Total Request-General Revenue</b>	<b>\$89,301,615</b>
▪ <b>Estimated Benefits Expense</b>	<b><u>23,000,000</u></b>
▪ <b>Amount Required to be Covered by Revenue</b>	<b>\$112,301,615</b>
▪ <b>Estimated Biennial Revenue</b>	<b>\$113,917,859</b>
▪ <b>Difference</b>	<b>\$ 1,616,244</b>



# **CERTIFICATION**

## **REGULAR COMMISSION MEETING**

**10:30 a.m. – July 25, 2008**

5806 Mesa Drive  
Austin, Texas 78731



STATE OF TEXAS

COUNTY OF TRAVIS

This certifies that the attached is a true copy of the proceedings of the Texas Alcoholic Beverage Commission meeting held on July 25, 2008.

A handwritten signature in black ink, appearing to read "Alan Steen".

Alan Steen  
Administrator

Sworn and subscribed before me this the 18<sup>th</sup> day of August 2008.

A handwritten signature in black ink, appearing to read "Renee G. Johnston".

Renee G. Johnston  
Notary in and for Travis County

