



COMMISSION MEETING

August 22, 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*

TABLE OF CONTENTS

<u>TITLE</u>	<u>PAGE</u>
Agenda--TABC Commission Meeting – July 25, 2008.....	1
Minutes--TABC Commission Meeting – July 25, 2008	2
Attachment 1: Longevity Service Awards	
Attachment 2: Administrator’s Report on Trends	
Attachment 3: 2009 Operating Budget	
Attachment 4: Office of Professional Responsibility Update	
Attachment 5: Proposed New Rules on Complaints	
Attachment 6: Rules Relating to Sanctions and Penalties	
Attachment 7: Legislative Appropriations Request FY 2010 - FY 2011	
Certification of Minutes	16



AGENDA

REGULAR COMMISSION MEETING

10:30 a.m. – August 22, 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, August 22, 2008
10:30 a.m.

AGENDA

1. Call to Order	John Steen
2. Approval of Commission Meeting Minutes of July 25, 2008	John Steen
3. Administrator's Report: Administrator and Agency Activities, Budget Issues, Staff Achievements	Alan Steen
4. Discussion of Manufacturer and Wholesaler Mergers	Alan Steen
5. Renewal of Internal Audit Contract	Alan Steen
6. Approval of FY 2009 Internal Audit Plan	Russell Gregorczyk
7. Adoption of Amendment to §33.23, Relating to Surcharges Assessed for Permits and Licenses	Joan Bates
8. Adoption of New Rule, §33.25, Relating to Timeline for Implementation of Two-Year Licenses and Permits	Joan Bates
9. Adoption of New Rule, §33.26, Relating to Manufacturer's Agent's Warehousing Permit Fee	Joan Bates
10. Public Comment	John Steen
11. 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
12. Next Meeting Date: Friday, September 26, 2008	John Steen
13. Adjourn	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. – August 22, 2008

5806 Mesa Drive
Austin, Texas 78731



COMMISSION MEETING MINUTES

August 22, 2008

The Commissioners of the Texas Alcoholic Beverage Commission (TABC) met in Regular Session on Friday, August 22, 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

Lou Bright, General Counsel, Legal Services

David Clowe, Network Specialist, Information Resources

Bobby Gideon, Director, Office of Professional Responsibility

Diana Gonzalez, Director of Tax Division

Amy Harrison, Director of Licensing

Joe Iagnemma, System Support Specialist,

Information Resources

Linda Jackson, Administrative Assistant, Compliance

Tanya Jimenez, Administrative Assistant, Executive

Dexter Jones, Assistant Chief of Field Operations

Jo Ann Joseph, Assistant Director of Licensing

Ron Kelly, Training Specialist, Human Resources

Charlie Kerr, Director of Business Services

Vanessa Mayo, Quality Review Supervisor, Compliance

Joel Moreno, Chief of Field Operations

Gloria Reed, Executive Assistant, Executive

Rod Venner, Assistant Chief of Enforcement

Jay Webster, Director of Information Resources

**GUESTS
PRESENT:**

Dell Boothe, Vice President, Capitol Beverage
Dewey Brackin, Representing Texas Retailers Association
M.L. Calcote, Representing Republic National Distributing
Company
Doug Dubois, TPCA
Glen Garey, Texas Restaurant Association
Julie Harker, Office of the Governor
Allen King, Internal Auditor, Jansen & Gregorczyk
Fred Marosko, Texas Package Stores Association
Mike McKinney, WBBDT
Keith Strama, Attorney
Don Walden, TWGGA
Laurie Watson, Vice President, Brown Distributing
Randy Yarbrough, WBBDT

CALL TO ORDER

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

APPROVAL OF COMMISSION MEETING MINUTES OF JULY 25, 2008

Chairman Steen called for approval of the Commission meeting minutes of July 25, 2008. Commissioner José Cuevas so moved, and Commissioner Steven Weinberg 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:

- A partnership with Texas Comptroller's Office has been established to create a system to automate the cigarette tax stamps at the Ports of Entry.
- Flags Beverages, Inc. applied for mixed beverage permits at two locations in Arlington, Texas: Six Flags Over Texas and Hurricane Harbor. This has created a lot of controversy and a hearing has been set for October 14-15, 2008 in Fort Worth, Texas. TABC is not joining in the protest, but agency legal staff will be in attendance to provide expertise and an orderly

presentation of the testimony at the hearing. TABC will be a neutral party to the hearing. Additional information is available on the TABC public website.

Commissioner Weinberg asked General Counsel Lou Bright about the allegation that "The place or manner in which the applicant may conduct its business warrants a refusal of the permit based on the general welfare, health, peace, morals, safety, and sense of decency of the people in violation of Texas Alcoholic Beverage Code section 11.46." Commissioner Weinberg asked if it was legitimate enough to hold up in court. Mr. Bright explained that it is a standard from the relevant portions of the statute that have been specifically defined, to some degree, by general rule of the Commission and judicial precedents. It assists citizens concerned about the ramifications of allowing a business to serve alcoholic beverages.

- Agents in Dallas and Corpus Christi are working with wholesalers to combat internal theft and the sale of stolen beverages to local retailers.
- The reporting and excise tax payment cycle for Direct Shippers has been changed from monthly to quarterly. This is in an effort to reduce costs and improve efficiency as the monthly processing costs are more than the revenues received.
- Austin area Agents worked in conjunction with local, state, and federal agencies in "Operation Brown Bag," an undercover operation to combat selling drug paraphernalia to minors. The efforts resulted in arrests of twelve store clerks. TABC agents who participated are working with the Williamson County District Attorney's office to ensure successful prosecution of the criminal charges and will also file the appropriate administrative charges to suspend or cancel the alcoholic beverage permits of the involved retailers.
- The Tax Division's Education and Prevention office has vacancies in three key positions, which include the grants coordinator, education specialist, and technical writer.
- The licensing reengineering project is going well on the aggressive time frame.
- The hard and soft costs associated with staff turnover and training were researched and reported with \$694,000 for soft costs and \$1,214,000 total costs.
- Administrator Steen reviewed various trend information (Attachment 2), which included recidivism rates of sales to minors, prohibited hours sales, wholesale level sales, and comparative growth rates.
- Physical Fitness Standards must be adopted, the agents tested, and compliance reports issued to the Governor, Lieutenant Governor, Speaker, and the Legislators by November 1, 2008. The physical fitness standards

Commissioner Cuevas asked if these corrections changed the implementation, she stated that it did not.

Commissioner Weinberg so moved to adopt the new rule and Commissioner Cuevas seconded. The motion carried.

Ms. Bates presented the new rule §33.26, Relating to Manufacturer's Agent's Warehousing Permit Fee for adoption. She stated that it had been previously published for public comment and no public comment was received

Commissioner Weinberg so moved and Commissioner Cuevas seconded. The motion carried.

PUBLIC COMMENT

Chairman Steen asked if there was anyone in the audience who wished to provide public comment. No one registered or expressed a desire to provide any public comment.

Commissioner Cuevas asked Amy Harrison to read a letter dated July 13, 2008, which was addressed to Mr. José Cuevas, TABC Commissioner. The letter expressed appreciation for the TABC licensing division and the efforts made on their part for the assistance in enabling a business to obtain its license and have their grand-opening as scheduled.

EXECUTIVE SESSION

Chairman Steen made the announcement that the regular open session of the Texas Alcoholic Beverage Commission would be recessed, the time being 11:21 a.m., August 22, 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 August 22, 2008, and the time, 12:29 p.m. No final action, decision, or vote was made in the executive session.

NEXT MEETING

Chairman Steen announced the next meeting date, Friday, September 26, 2008.

ADJOURNMENT

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

Attachment 1

Administrator's Report on Trends

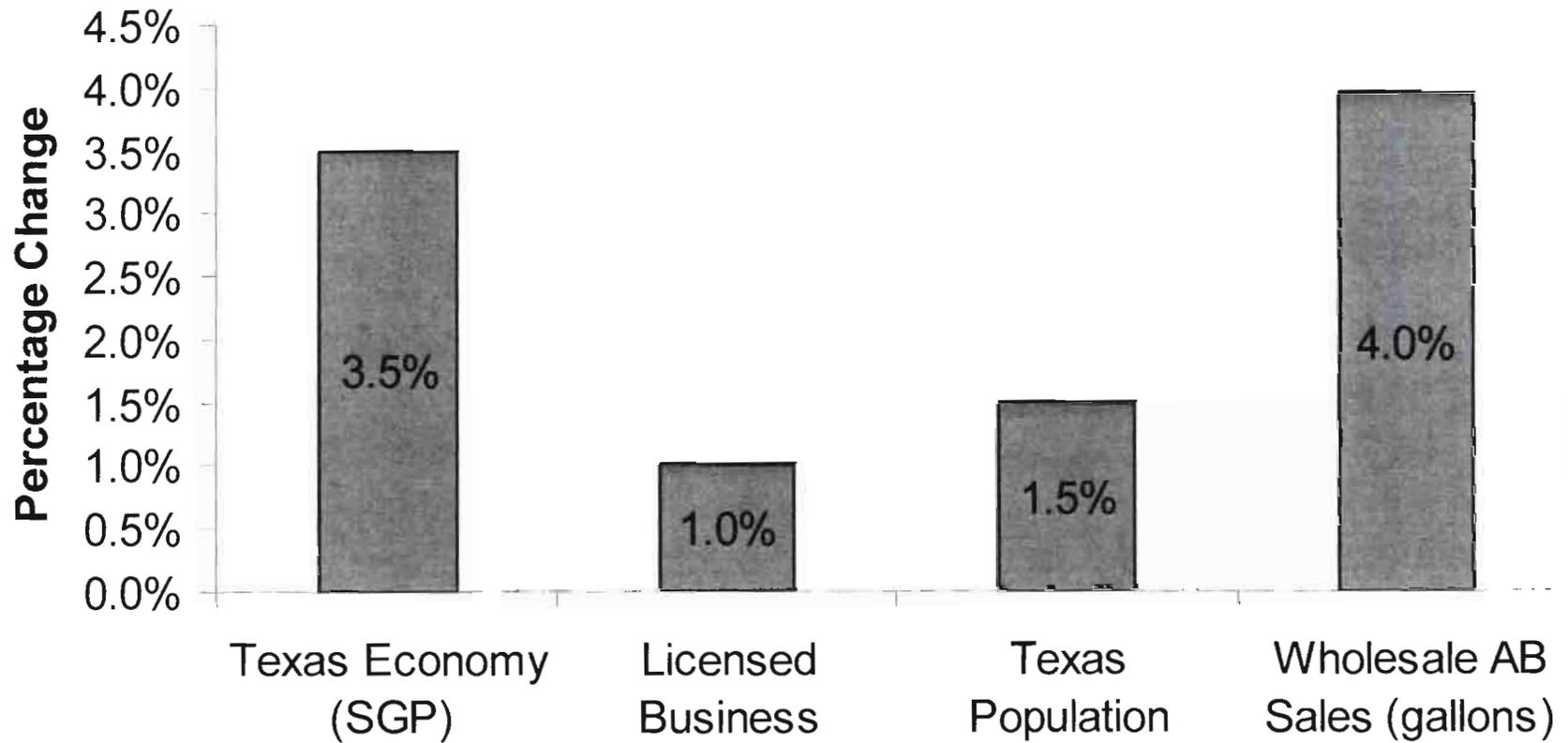
Administrator's Report

July 2008

Wholesale Alcoholic Beverage Sales September - July

Alcoholic Beverage Class	FY 2007 (gallons)	FY 2008 (gallons)	% Change
Distilled Spirits	23,610,028	25,682,990	9%
Wine	35,347,319	37,136,310	5%
Beer	499,593,009	515,992,694	3%
Malt Liquors	30,724,828	33,773,318	10%
All Classes	589,275,184	612,585,312	4%

Comparative Growth Rates FY 2007 to FY 2008



Physical Fitness Standards

- Adopt fitness standards, test agents, and issue compliance reports to Governor, Lt. Governor, Speaker, and Legislators by November 1, 2008.
- Fit Force is going to recommend a 3 year implementation:
 - 2009 – Mandatory education with voluntary participation in fit standards: No Consequences.
 - 2010 – Mandatory education with mandatory participation in fit standards: No Consequences.
 - 2011 – Mandatory participation and compliance with fit standards.

Attachment 2

Fiscal Year 2009 Internal Audit Plan

**Texas Alcoholic Beverage
Commission
Internal Audit Plan
for FY 2009**

For Consideration by the TABC Commissioners

on

August 22, 2008

As Prepared by
Jansen & Gregorczyk
Certified Public Accountants

TABLE OF CONTENTS

Transmittal Letter 2

Section 1: Risk Assessment 3

Section 2: FY 2009 Internal Audit Plan 7

Exhibit 1: Risk Assessment Instrument 10

Exhibit 2: Risk Assessment Weightings 14

Exhibit 3: Risk Scores and Risk Rankings 15

Exhibit 4: Audit Risk Ranking and Internal Audit History 16

Texas Alcoholic Beverage Commission - FY 2009 Internal Audit Plan

Jansen & Gregorczyk
Certified Public Accountants

Telephone
(512) 268-0070

P. O. Box 601
Kyle, Tx. 78640

August 14, 2008

Commission Members,
Texas Alcoholic Beverage Commission

The following document presents the fiscal year 2009 Internal Audit Plan as approved by the Commission in accordance with the Texas Internal Auditing Act. Chapter 2102 of the Government Code requires that the internal audit plan include areas identified through risk assessment. This document presents the risk assessment results and the approved audit plan based on the results of the risk assessment.

Signed Copy on File

Jansen & Gregorczyk
Certified Public Accountants

**SECTION 1:
TEXAS ALCOHOLIC BEVERAGE COMMISSION RISK ASSESSMENT**

This section presents the results of the TABC Risk Assessment, and establishes the foundation for the Internal Audit Plan presented in the next section.

Purpose

One of the key findings in the State Auditor's Office report, *Statewide Review of Internal Auditing*, was that the scope of internal auditing is often limited in state agencies. The report states, "Because significant financial and operating risks to the agency may be overlooked if the scope of the internal auditors work is limited, we recommend that internal auditors:

- Document, in writing, a risk assessment that considers all the major systems and controls of the agency as part of the audit universe. The audit universe refers to all auditable subjects, activities, units, issues and functions within the organization.
- Identify the risk factors that affect the audit universe and weights that may be applied to the risk factors.
- Establish a method for combining and assigning risk factors and weights to develop a prioritized annual audit work plan.
- Develop an audit plan and work schedule based on the results of the risk assessment.
- Obtain written approval for the plan from the highest level within the organization.
- Implement the plan. Significant deviations from the audit plan should be supported by reasonable, documented explanations.

The purpose of conducting a Risk Assessment for the TABC was to incorporate all these recommended elements in an objective assessment of the agency. This should ensure that the scope of internal audit work at the TABC is not limited and that the Internal Audit Plan for FY 2009 is based on documented, written findings.

Concept of Risk

The concept of risk is fundamental in internal auditing. Given the importance of the concept of risk, it is necessary to define what risk is, describe types of risk and describe how risk was measured in performing the TABC Risk Assessment.

Texas Alcoholic Beverage Commission - FY 2009 Internal Audit Plan

Risk is a measurement of the likelihood that an organization's goals and objectives will not be achieved. Since controls are anything that improve the likelihood that goals and objectives will be achieved, controls and risk are inversely related by definition. Better control means less risk. The Risk Assessment was designed to detect and evaluate the controls in place to reduce different types of risk exposure.

The TABC Risk Assessment was designed to measure different types of "risk exposure" and to assess the controls in place to compensate for different levels of risk. The types of risk exposure, which are relevant to the TABC, are:

- *Financial Exposure:* Financial exposure exists whenever an audit area is susceptible to errors or defalcations that affect the general ledger and financial statements or the integrity and safekeeping of agency assets, regardless of the financial statement impact.

- *Regulatory Exposure:* Regulatory exposure exists whenever an event in an audit area could cause the agency to fail to comply with regulations mandated by state or federal authorities, irrespective of whether financial exposure exists.

- *Information Exposure:* An information exposure exists whenever there is information of a sensitive or confidential nature, which could be altered, destroyed, or misused.

- *Efficiency Exposure:* An efficiency exposure exists whenever agency resources are not being utilized in an effective or efficient manner.

- *Human Resource Exposure:* A human resource exposure exists whenever an area is managing human resources in a way, which is contrary to agency policy.

- *Environmental Exposure:* An environmental exposure exists whenever internal or external factors pose a threat to the stability and efficiency of an audit area. Examples of factors that affect environmental exposure are:

- Recent changes in key personnel
- Changing economic conditions
- Time elapsed since last audit
- Pressures on management to meet objectives
- Past audit findings and quality of internal control

- *Political Exposure:* A political exposure exists whenever an event in an audit area could cause the agency to be subjected to adverse political consequences.

- *Public Service Exposure:* A public service exposure exists whenever an event in an audit area could jeopardize existing public services or new public services.

Texas Alcoholic Beverage Commission - FY 2009 Internal Audit Plan

The TABC Risk Assessment Survey was designed to measure various types of risk ranging from the risk of loss of assets to the risk of adverse publicity due to erroneous information. The survey instrument allows meaningful comparisons among very different activities and types of risk by assigning all potential auditable topics a numeric score.

Methodology

The risk variables utilized for the TABC Risk Assessment combined measures of the various controls and exposure types described in the previous section. Exhibit 1 presents the risk survey instrument utilized. Fifteen risk variables or risk factors were selected to provide a cross-section of overall risk. These fifteen factors were weighted according to their perceived importance, i.e. the higher the weighting, the higher the risk. The risk variables and their weightings are presented in Exhibit 2.

The first step in conducting the Risk Assessment involved defining the potential audit universe. To be in compliance with the Texas Internal Auditing Act, all potential auditable subjects, activities, units, issues and functions were determined. The universe of potential audit topics was developed through interviews with the TABC management and by reviewing material such as the previous years' internal audit risk assessments and audit plans, the organizational chart and agency reports and publications.

The second step in the process was to utilize the survey instrument to assess the risk for each potential audit topic. This step was completed by interviewing the division directors and reviewing information such as the agency budget for FY 2009 and turnover statistics for FY 2008.

The third phase of the Risk Assessment involved scoring and ranking the answers to the survey questions. By weighting the values of the different risk indicators, the survey was individualized for the TABC.

The final step in conducting the Risk Assessment was to rank and categorize every potential auditable topic. Based on the average score and the standard deviation of the potential audit universe, the potential auditable topics were categorized as follows:

Maximum Risk	- Over 214
High Risk	- 188 to 214
Average Risk	- 161 to 187
Low Risk	- Below 161

Results

Exhibit 3 presents the results of the Risk Assessment for each potential audit topic. Five potential audit topics are rated as maximum risk and four are rated as high risk within the agency as follows:

Maximum Risk

- Compliance Division- License Processing
- Business Services Division- Accounting
- Information Resources Division
- Enforcement Division- Field Operations
- Licensing Division

High Risk

- Enforcement Division- Headquarters Operations
- Legal Services Division
- Compliance Division- Field Operations
- Enforcement Division- Licensing Standards Investigators

**SECTION 2:
TEXAS ALCOHOLIC BEVERAGE COMMISSION
FY 2009 INTERNAL AUDIT PLAN**

The Texas Internal Auditing Act requires certain audits to be performed on a periodic basis. Required audits include audits of the agency's accounting systems and controls, administrative systems and controls, electronic data processing systems and controls, and other major systems and controls. In addition, five general types of audits are required by the *Standards for the Professional Practice of Internal Auditing* as follows:

- **Reliability and Integrity of Information** - Internal Auditors should review the reliability and integrity of financial and operating information and the means used to identify, measure, classify, and report such information.

- **Compliance with Policies, Plans, Procedures, Laws, and Regulations** - Internal auditors should review the systems established to ensure compliance with those policies, plans, procedures, laws, and regulations which could have a significant impact on operations and reports. and should determine whether the organization is in compliance with them.

- **Safeguarding of Assets** - Internal auditors should review the means of safeguarding assets and, and as appropriate verify the existence of such assets.

- **Economical and Efficient Use of Resources** - Internal auditors should appraise the economy and efficiency with which assets are employed.

- **Accomplishment of Established Objectives and Goals for Operations and Programs** - Internal auditors should review operations or programs to ascertain whether results are consistent with established objectives and goals, and whether the operations or programs are being carried out as planned.

The FY 2009 Internal Audit Plan for the TABC is based on the results of the risk assessment presented in the previous section, audits required to be performed on a periodic basis by the Internal Auditing Act and management's input on areas where internal audits would be helpful. For FY 2009, the following topics will be audited:

- Compliance Division- License Processing (Maximum Risk)
- Business Services Division- Accounting (Maximum Risk)
- Tax Division- Headquarters Operations (Average Risk)
- Agency-wide Sunset Commission Recommendations (Average Risk)
- Agency-wide Performance Measures (Low Risk)

Texas Alcoholic Beverage Commission - FY 2009 Internal Audit Plan

The audit of the Compliance Division-License Processing will focus on the effectiveness and efficiency of the field offices in processing license applications to sell alcoholic beverages. It is anticipated that a component of this audit will be evaluating the accuracy and effectiveness of license processing services in submitting license applications to TABC.

The Business Services Division - Accounting audit is an audit required to be performed on a periodic basis by the Texas Internal Audit Act. The audit was last performed in FY 2005. The audit will focus on evaluating the adequacy of the accounting system and accounting internal controls. The effectiveness and efficiency of accounting functions performed by the Business Services Department will also be reviewed, as well as the reliability and integrity of information reported by the Business Services Department.

The audit of the Tax Division- Headquarters Operations will focus on compliance with laws and regulations and the effectiveness and efficiency of the functions performed by this division. The adequacy of internal controls will also be evaluated for functions where controls are required.

The audit of the Sunset Commission Recommendations will evaluate the status of implementing recommendations made in the Sunset Commission Report and new agency provisions in Senate Bill 904 passed in the last legislative session

The audit of Agency-wide Performance Measures will focus on evaluating whether the agency performance measures are appropriate measures of the agency's statutory functions.

Follow-up audit reviews will be performed on all audits completed in FY 2008. The purpose of this work will be to determine the status of implementation of any recommendations made in those audits. In addition to these proposed audits and audit work, the risk assessment will be updated and an audit plan developed for FY 2010.

The proposed time estimates and time frames for the FY 2009 audit work are:

- Audit of Office of Sunset Commission Recommendations and Senate Bill 904 (September 2008 to October 2008) – 120 hours
- Audit of Tax Division- Headquarters Operations – (September 2008 to October 2008) – 140 hours
- Prepare Annual Internal Audit Report for FY 2008 – 10 hours (October 2008)
- Audit of Compliance Division-License Processing – 140 hours (January 2009 to February 2009)
- Follow-up Review of Prior Years' Audit Recommendations- 40 hours (March 2009)
- Audit of Business Services Division-Accounting – 140 hours (April 2009 to May 2009)
- Audit of Agency-wide Performance Measures – 100 hours (June 2009 to July 2009)

Texas Alcoholic Beverage Commission - FY 2009 Internal Audit Plan

- Update Risk Assessment and Prepare FY 2010 Audit Plan – 10 hours (August 2009)

The total budgeted time for FY 2009 audit work is 700 hours; total estimated costs are \$63,000, plus travel expenses for fieldwork outside of Austin.

**EXHIBIT 1
TEXAS ALCOHOLIC BEVERAGE COMMISSION
FY 2009 RISK ASSESSMENT**

1. Annual Dollars Involved

The dollar amount per year of assets, receipts, or disbursements involved in the program or for which the auditable unit is responsible. The auditable unit has responsibility if it identifies, measures, classifies, reports, or monitors the assets, receipts, or disbursements. Dollar amounts can be included in determining the evaluation for more than one auditable unit.

<u>Evaluation</u>	<u>Points</u>
Less than \$500 thousand per year, or not applicable	1
At least \$500 thousand per year but less than \$1 million per year	2
At least \$1 million per year but less than \$5 million per year	3
More than \$5 million per year	4

2. Transaction Volume

The number of transactions for which the auditable unit is responsible. The auditable unit has responsibility if it identifies, measures, classifies, reports, or reconciles the transaction. A transaction can be included in determining the evaluation for more than one auditable unit. Also, some auditable units are responsible for only summary transactions while others are responsible for the detailed transactions that make up the summary transactions.

<u>Evaluation</u>	<u>Points</u>
Less than 1,000 per year, or not applicable	1
Greater than 1,000 but less than 5,000 per year	2
Greater than 5,000 per year	3

3. Safeguarding Assets

Personnel in the auditable unit safeguard assets if they control access to assets. Access to assets includes both direct physical access and indirect access through the preparation and processing of documents that authorize the use or disposition of assets.

<u>Evaluation</u>	<u>Points</u>
No access to assets, or not applicable	1
Limited access to assets	2
Some access to assets	3
Substantial access to assets	4

**EXHIBIT 1
TEXAS ALCOHOLIC BEVERAGE COMMISSION
FY 2009 RISK ASSESSMENT**

4. Impact of Adverse Publicity

This factor includes those circumstances that increase the adverse impact of errors. An auditable unit's visibility results from several sources, including: 1.) the Commission's or management's interest in the auditable unit's activities; 2.) involvement of outside groups, such as an advocacy group or the Legislature; or 3.) direct interaction with the public or clients.

<u>Evaluation</u>	<u>Points</u>
Little visibility, or not applicable	1
Some visibility	2
High visibility	3

5. Time Since Last Audit or Review

The number of years between the date of the previous audit or review and the date of the risk assessment.

<u>Evaluation</u>	<u>Points</u>
One year or less	1
Over one year but less than three years	2
Three years or more	3

6. Results of Last Audit or Review

Auditor's evaluation of the results of the previous audit or review.

<u>Evaluation</u>	<u>Points</u>
Positive findings or no findings	1
No prior audit or more than three years ago	2
Negative findings	3

7. Operational Changes

Auditor's evaluation of the impact on the auditable unit from changes in its operations, including changes in staff, size, funding, budget, responsibilities, or processing data. Changes include those made within the last year or anticipated to be made in the next year.

<u>Evaluation</u>	<u>Points</u>
Few changes, or not applicable	1
Some changes	2
Extensive changes	3

**EXHIBIT 1
TEXAS ALCOHOLIC BEVERAGE COMMISSION
FY 2009 RISK ASSESSMENT**

8. Personnel Turnover

In the last 12 months, the number of personnel leaving the auditable unit.

<u>Evaluation</u>	<u>Points</u>
Low turnover (15% or less), or not applicable	1
Average turnover (15% to 25%)	2
High turnover (more than 25%)	3

9. Policies and Procedures

The existence of policies and procedures documenting the auditable unit's activities.

<u>Evaluation</u>	<u>Points</u>
Written procedures current or not applicable	1
Written procedures, but not current	2
No written procedures	3

10. Training

Auditor's evaluation of the auditable unit's staff training, including cross training.

<u>Evaluation</u>	<u>Points</u>
Substantial training, or not applicable	1
Some training	2
Little training	3

11. Work Complexity

Auditor's evaluation of the work needed to complete assignments including amount of time, number of steps, and familiarity with agency laws, policies, and rules.

<u>Evaluation</u>	<u>Points</u>
Low work complexity, or not applicable	1
Medium work complexity	2
High work complexity	3

12. Work Load Fluctuations

Auditor's evaluation of the fluctuations in the auditable unit's workload.

<u>Evaluation</u>	<u>Points</u>
Steady workload, or not applicable	1
Some fluctuations in work load	2
Substantial fluctuation in work load	3

**EXHIBIT 1
TEXAS ALCOHOLIC BEVERAGE COMMISSION
FY 2009 RISK ASSESSMENT**

13. Sensitivity of Data

Auditor's evaluation of the type of data collected, processed, and prepared by the auditable unit.

<u>Evaluation</u>	<u>Points</u>
Little sensitive or confidential data, or not applicable	1
Some sensitive or confidential data	2
Most data sensitive or confidential	3

14. Impact of Inaccurate Data

Auditor's evaluation of the impact of incorrect data processed by the auditable unit or supplied to organizations outside of the agency.

<u>Evaluation</u>	<u>Points</u>
Little data provided outside the agency, or not applicable	1
Some data provided outside the agency	2
Most data provided outside the agency	3

15. Management Review

Auditor's evaluation of the review given by upper management (Administrator, Assistant Administrator, Chief of Enforcement, or Division Director) of the auditable unit's activities.

<u>Evaluation</u>	<u>Points</u>
Frequent or detailed review, or not applicable	1
Some direct review	2
Little direct review	3

Texas Alcoholic Beverage Commission - FY 2009 Internal Audit Plan

**EXHIBIT 2
TEXAS ALCOHOLIC BEVERAGE COMMISSION
FY 2009 RISK ASSESSMENT AND RISK FACTOR WEIGHTINGS**

RISK FACTOR:	Weight	*	Points	=	Score
1. Annual Dollars Involved	7.75	*	4	=	31.00
2. Transaction Volume	5.00	*	3	=	15.00
3. Safeguarding Assets	7.25	*	4	=	29.00
4. Impact of Adverse Publicity	7.50	*	3	=	22.50
5. Time Since Last Audit or Review	5.75	*	3	=	17.25
6. Results of Last Audit or Review	5.00	*	3	=	15.00
7. Operational Changes	6.75	*	3	=	20.25
8. Personnel Turnover	6.50	*	3	=	19.50
9. Policies and Procedures	5.00	*	3	=	15.00
10. Training	5.25	*	3	=	15.75
11. Work Complexity	7.00	*	3	=	21.00
12. Work Load Fluctuations	5.75	*	3	=	17.25
13. Sensitivity of Data	7.75	*	3	=	23.25
14. Impact of Inaccurate Data	7.75	*	3	=	23.25
15. Management Review	<u>5.00</u>	*	<u>3</u>	=	<u>15.00</u>
Maximum Score					300.00

Texas Alcoholic Beverage Commission - FY 2009 Internal Audit Plan

**EXHIBIT 3
TEXAS ALCOHOLIC BEVERAGE COMMISSION
FY 2009 AUDIT UNIVERSE RISK ANALYSIS WEIGHTED SCORES**

POTENTIAL AUDIT TOPIC		WEIGHTED RISK ASSESSMENT SCORES															RISK SCORE
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	
MAXIMUM RISK (ABOVE 214)																	
1	COMPLIANCE DIVISION - LICENSE PROCESSING	31	15	15	15	17	10	20	13	10	11	21	12	23	8	15	235
2	BUSINESS SERVICES DIVISION-ACCOUNTING	31	15	29	15	17	5	7	7	5	11	21	12	23	23	10	230
3	INFORMATION RESOURCES DIVISION	31	15	29	15	12	5	14	7	10	5	21	12	23	23	5	226
4	ENFORCEMENT DIVISION - FIELD OPERATIONS	31	15	22	23	17	10	14	7	5	11	14	12	16	16	10	220
5	LICENSING DIVISION	31	15	22	15	12	5	14	7	10	5	21	12	23	23	5	219
HIGH RISK (188 TO 214)																	
6	ENFORCEMENT DIVISION- HQ OPERATIONS	31	5	22	15	17	10	20	13	5	11	21	6	16	16	5	212
7	LEGAL SERVICES DIVISION	16	5	15	23	12	15	14	13	10	5	21	6	23	16	10	201
8	COMPLIANCE DIVISION -FIELD OPERATIONS	31	15	15	15	17	5	14	7	5	5	21	6	23	8	10	196
9	ENFORCEMENT DIVISION- LIC. STDS. INVEST.'S	8	5	7	15	17	15	20	7	5	11	21	12	23	16	10	191
AVERAGE RISK (161 TO 187)																	
10	TAX DIVISION - HEADQUARTERS OPERATIONS	23	10	22	15	17	10	14	7	5	5	14	12	16	8	10	186
11	OFFICE OF PROFESSIONAL RESPONSIBILITY	8	5	15	23	6	10	20	7	15	11	14	17	23	8	5	185
12	COMPLIANCE DIVISION -HQ OPERATIONS	31	15	15	15	17	10	14	7	10	11	14	6	8	8	5	184
13	AGENCY-WIDE PLANNING & BUDGETING	31	5	7	23	17	10	7	7	5	11	14	12	8	23	5	183
14	EXECUTIVE ADMINISTRATION	31	5	22	15	6	5	14	7	5	5	21	12	16	16	5	182
15	BUSINESS SERVICES DIVISION-SUPPORT SERVICES	23	15	22	15	17	10	7	7	5	11	14	12	8	8	10	182
16	HUMAN RESOURCES DIVISION	16	10	15	8	12	5	7	13	5	11	14	12	23	23	5	176
17	COMPLIANCE DIVISION- MARKETING PRACTICES	8	5	7	23	6	10	14	7	10	11	14	12	16	23	10	173
18	TAX DIVISION - PORTS OF ENTRY	23	15	29	15	12	5	14	7	5	5	7	12	8	8	10	173
19	AGENCY-WIDE PROTEST PROCESS	8	5	7	23	6	10	20	7	5	11	7	17	16	16	15	171
20	ENFORCMENT DIVISION-TRAINING	8	5	7	23	17	10	14	13	5	5	14	12	16	16	5	168
21	AGENCY-WIDE SUNSET COMMISSION REC.'S	8	5	7	23	17	10	20	7	5	5	14	6	16	16	5	163
LOW RISK (BELOW 161)																	
22	AGENCY-WIDE TRAINING & STAFF DEVELOPMENT	16	5	15	8	17	15	14	7	5	5	14	12	8	8	5	151
23	AGENCY-WIDE TRAVEL POLICIES & PROCEDURES	8	5	22	8	17	10	7	7	5	11	7	6	8	8	15	141
24	AGENCY-WIDE PERFORMANCE MEASURES	8	5	7	15	17	10	7	7	5	5	7	6	8	23	5	135

AVERAGE SCORE: 187

STANDARD DEVIATION: 26

Texas Alcoholic Beverage Commission - FY 2009 Internal Audit Plan

**EXHIBIT 4
TEXAS ALCOLHOLIC BEVERAGE COMMISSION
AUDIT RISK RANKING AND INTERNAL AUDIT HISTORY**

	POTENTIAL AUDIT TOPIC	RISK SCORE	FY 09 PLAN	INTERNAL AUDIT HISTORY							
				FY 08	FY 07	FY 06	FY 05	FY 04	FY 03	FY 02	FY 01
1	COMPLIANCE DIVISION - LICENSE PROCESSING	235	X						X		
2	BUSINESS SERVICES DIVISION - ACCOUNTING	230	X				X				X
3	INFORMATION RESOURCES DIVISION	226			X					X	
4	ENFORCEMENT DIVISION - FIELD OPERATIONS	220					X				
5	LICENSING DIVISION	219				X			X(1)		X(2)
6	ENFORCEMENT DIVISION - H/Q OPERATIONS	212						X			
7	LEGAL SERVICES DIVISION	201				X					
8	COMPLIANCE DIVISION - FIELD OPERATIONS	196					X				
9	ENFORCEMENT DIV. - LIC. STDS. INVESTIGATORS	191				X					
10	TAX DIVISION- HEADQUARTERS OPERATION	186	X						X		
11	OFFICE OF PROFESSIONAL RESPONSIBILITY	185		X							
12	COMPLIANCE DIVISION - H/Q OPERATIONS	184							X		
13	AGENCY-WIDE PLANNING & BUDGETING	183							X		
14	BUSINESS SERVICES DIVISION-SUPPORT SERVICES	182						X			
15	EXECUTIVE ADMINISTRATION	182		X							
16	HUMAN RESOURCES DIVISION	176				X				X	
17	COMPLIANCE DIVISION MARKETING PRACTICES	173		X							
18	TAX DIVISION - PORTS OF ENTRY	173			X						X
19	AGENCY-WIDE PROTEST PROCESSS	171		X							
20	ENFORCEMENT DIVISION-TRAINING	168						X			
21	AGENCY-WIDE SUNSET COMMISSION REC.'S	163	X								
22	AGENCY-WIDE TRAINING & STAFF DEVELOPMENT	151						X			
23	AGENCY-WIDE TRAVEL POLICIES & PROCEDURES	141									
24	AGENCY-WIDE PERFORMANCE MEASURES	135	X								

NOTES - (1) AUDIT IN FY 03 COVERED ONLY THE LICENSE PROCESSING FUNCITON.

(2) AUDIT IN FY 01 COVERED ONLY THE TAX SECURITY PROCESSING UNIT.

Attachment 3

Amendments Relating to Surcharges

AMENDMENTS FOR ADOPTION-NO CHANGES

§33.23. Alcoholic Beverage License and Permit Surcharges.

(a) An annual[A] surcharge of all original or renewal permit or license fees set by the Texas Alcoholic Beverage Code shall be levied against license and permit holders as follows:

Liquor Permits	
Agent's Permit	\$40.00
Airline Beverage Permit	\$139.00
Beverage Cartage Permit	\$64.00
Bonded Warehouse Permit	\$58.00
Bonded Warehouse Permit (Dry Area)	\$58.00
Brewer's Permit	\$245.00
Brewpub License	\$181.00
Carrier's Permit	\$107.00
Caterer's Permit	\$118.00
Daily Temporary Mixed Beverage Permit (Per Day)	\$171.00
Daily Temporary Private Club Registration Permit	\$192.00
<u>Direct Shipper's Permit</u>	<u>\$160.00</u>
Distiller's & Rectifier's Permit	\$149.00
Food and Beverage Certificate	\$245.00
Forwarding Center Authority	\$118.00
Industrial Permit	\$111.00
Local Cartage Permit	\$86.00
Local Distributor's Permit	\$192.00
Local Industrial Alcohol Manufacturer's Permit	\$139.00
Manufacturer's Agent's Permit	\$40.00
<u>Manufacturer's Agent's Warehousing Permit</u>	<u>\$277.00</u>
Market Research Packager's Permit	\$54.00
Minibar Permit	\$149.00
Mixed Beverage Permit	\$256.00
Mixed Beverage Late Hours Permit	\$139.00

Mixed Beverage Restaurant Permit with Food and Beverage Certificate	\$256.00
Non Resident Brewer's Permit	\$160.00
Non Resident Seller's Permit	\$160.00
<u>Out-of-State Wine Only Package Store</u>	<u>\$235.00</u>
Package Store Permit	\$213.00
Package Store Tasting Permit	\$75.00
<u>Promotional Permit</u>	<u>\$160.00</u>
Wine Only Package Store Permit	\$235.00
Passenger Train Beverage Permit	\$256.00
Private Carrier's Permit	\$107.00
Private Club Registration Permit	\$383.00
Private Club Beer and Wine Permit	\$383.00
Private Club Late Hours Permit	\$149.00
Private Storage Permit	\$86.00
Temporary Charitable Auction Permit	\$171.00
Public Storage Permit	\$86.00
Wholesaler's Permit	\$298.00
General Class B Wholesaler's Permit	\$277.00
Local Class B Wholesaler's Permit	\$277.00
Wine and Beer Retailer's Permit Railway Car	\$235.00
Wine and Beer Retailer's Permit Excursion Boat	\$235.00
Wine Bottler's Permit	\$256.00
Winery Permit	\$298.00
Winery Storage Permit	\$86.00
Beer Licenses	
Agent's Beer License	\$40.00
Branch Distributor's License	\$298.00
General Distributor's License	\$298.00
Importer's License	\$118.00
Importer's Carrier's License	\$86.00
Local Distributor's License	\$298.00
Manufacturer's License	\$277.00

Manufacturer's Warehouse License	\$235.00
Non Resident Manufacturer's License	\$245.00
Beer Retailer's Off Premise License	\$235.00
Beer Retailer's On Premise License	\$235.00
Retail Dealer's On Premise Late Hours License	\$139.00
Storage License	\$86.00
Temporary License	\$171.00
Temporary License Special 3 Day Wine and Beer	\$171.00
Temporary License Special 4 Day Wine and Beer	\$171.00
Wine and Beer Retailer's Permit	\$235.00
Wine and Beer Retailer's Off Premise Permit	\$235.00

(1) The surcharge shall apply to each brewpub licensed under Texas Alcoholic Beverage Code, Chapter 74, even though one or more are licensed under the same general management or ownership.

(2) An organization which meets the requirements for exemption from a private club registration permit under the Texas Alcoholic Beverage Code §32.11, is also exempt from the surcharge.

(b) The surcharges shall be due and payable at the same time and in the same place and manner as the original or renewal permit, certificate, or license fee to which the surcharges apply.

(c) Failure or refusal to timely pay the license, certificate or permit surcharge shall be considered the same as failure to timely pay the original or renewal certificate, permit or license fee and the same penalties will apply.

~~[(d) The amount of surcharge due shall be determined by the issue date of the permit or license and the surcharge in effect under this rule on the issue date of that license or permit.]~~

~~[(e) This section shall take effect October 1, 2005.]~~

Attachment 4

Rules Relating to Two-Year Licenses and Permits

NEW RULE FOR ADOPTION W/CHANGES

§33.25. Alcoholic Beverage License and Permit Fees and Surcharges.

(a) This rule implements the provisions of §§5.50, 11.09 and 61.03 of the Texas Alcoholic Beverage Code (Code). Section 5.50 authorizes the Texas Alcoholic Beverage Commission (commission) by rule to assess surcharges on all applicants for original or renewal certificate, permit, or license issued by the commission. Sections 11.09 and 61.03 of the Code authorize the commission to issue a license or permit for a two-year term and double the amount of the fees established for each license or permit by the Code or a rule of the commission, and surcharges established in §33.23 of this chapter, relating to alcoholic beverage license and permit surcharges.

(b) Implementation Plan. To maintain a reasonable annual distribution of renewal application review work and permit fees, the commission will implement the two-year licensing schedule based on the type of permit or license type for which an application is submitted.

(c) An original or renewal application for a permit or license listed in the following chart, with an issue date before October 1, 2008, will expire one year from the date the license or permit is issued. An original or renewal application for a permit or license listed in the following chart, with an issue date on or after October 1, 2008, will expire two years from the date the license or permit is issued.

Permit/License Type [agency code]	Texas Alcoholic Beverage Code Chapter
Agent's Permit [A]	Ch. 35
Manufacturer's Agent's Permit [T]	Ch. 36
Agent's Beer License [BK]	Ch. 73

(d) An original or renewal application for a primary permit or license listed in the following chart, with an issue date before January 1, 2009, will expire one year from the date the license or permit is issued. An original or renewal application for a primary permit or license listed in the following chart, with an issue date on or after January 1, 2009, will expire two years from the date the license or permit is issued.

Permit/License Type [agency code]	Texas Alcoholic Beverage Code Chapter
Airline Beverage Permit [AB]	Ch. 34
Beverage Cartage Permit [PE]	Ch. 44
Bonded Warehouse Permit [J]	Ch. 46
Bonded Warehouse Permit (Dry Area) [JD]	Ch. 46
Brewpub License [BP]	Ch. 74
Carrier's Permit [C]	Ch. 41
Caterer's Permit [CB]	Ch. 31

Direct Shipper's Permit [DS]	Ch. 54
Distiller's & Rectifier's Permit [D]	Ch. 14
Food and Beverage Certificate [FB]	Ch. 25
Forwarding Center Authority [FC]	Rule §35.6
Industrial Permit [I]	Ch. 38
Local Industrial Alcohol Manufacturer's Permit [LI]	Ch. 47
Market Research Packager's Permit [MR]	Ch. 49
Minibar Permit [MI]	Ch. 51
Mixed Beverage Permit [MB]	Ch. 28
Mixed Beverage Restaurant Permit [RM] with FB	Ch. 28
Mixed Beverage Late Hours [LB]	Ch. 29
Passenger Train Beverage Permit [PT]	Ch. 48
Private Carrier's Permit [O]	Ch. 42
Private Club Exemption Certificate Permit [NE]	Ch. 32
Private Club Registration Permit [N]	Ch. 32
Private Club Beer and Wine Permit [NB]	Ch. 32
Private Club Late Hours Permit [NL]	Ch.33
Promotional Permit [PR]	Ch. 54
Wine Bottler's Permit [Z]	Ch. 18
Winery Permit [G]	Ch. 16
Winery Storage Permit [GS]	Ch. 45

(e) An original or renewal application for a primary permit or license listed in the following chart, with an issue date before September 1, 2009, will expire one year from the date the license or permit is issued. An original or renewal application for a primary permit or license listed in the following chart, with an issue date on or after September 1, 2009, will expire two years from the date the license or permit is issued.

Permit/License Type [agency code]	Texas Alcoholic Beverage Code Chapter
Agent's Manufacturing Warehousing Permit [AW]	Ch. 55
Brewer's Permit [B]	Ch. 12
Local Cartage Permit [E]	Ch. 43
Local Cartage Transfer Permit [ET]	Ch. 43

Local Distributor's Permit [LP]	Ch. 23
Private Storage Permit [L]	Ch. 45
Public Storage Permit [K]	Ch. 45
Package Store Permit [P]	Ch. 22
Wine Only Package Store Permit [Q]	Ch. 24
Out-of-State Wine Only Package Store Permit [QO]	Ch. 24
Package Store Tasting Permit [PS]	Ch. 52
Non-Resident Seller's Permit [S]	Ch. 37
Non-Resident Brewer's Permit [U]	Ch. 13
Storage License [SL]	Ch. 75
Wholesaler's Permit [W]	Ch. 19
General Class B Wholesaler's Permit [X]	Ch. 20
Local Class B Wholesaler's Permit [LX]	Ch. 21
Branch Distributor's License [BC]	Ch. 66
General Distributor's License [BB]	Ch. 64
Importer's License [BI]	Ch. 67
Importer's Carrier's License [BJ]	Ch. 68
Local Distributor's License [BD]	Ch. 65
Manufacturer's License [BA]	Ch. 62
Manufacturer's Warehouse License [MW]	Ch. 62
Non Resident Manufacturer's License [BS]	Ch. 63
Beer Retailer's Off Premise License [BF]	Ch. 71
Beer Retailer's On Premise License [BE] Counties under 1.4 million population	Ch. 69
Beer Retailer's On Premise License [BE] Counties over 1.4 million population - Original	Ch. 69
Beer Retailer's On Premise License [BE] Counties over 1.4 million population - Renewal	Ch. 69
Retail Dealer's On Premise Late Hours License [BL]	Ch. 70
Wine and Beer Retailer's On Premise License [BG] Counties under 1.4 million population	Ch. 25
Wine and Beer Retailer's On Premise License [BG] Counties over 1.4 million population	Ch. 25
Wine and Beer Retailer's Off Premise License [BQ]	Ch. 26
Wine and Beer Retailer's Permit Railway Car	Ch. 25

[Y]	
Wine and Beer Retailer's Permit Excursion Boat [V]	Ch. 25
Food and Beverage Certificate [FB]	Ch. 25

(f) The following permits and licenses are time limited and the fees and surcharges are assessed each time a permit or license is issued.

Permit/License Type [agency code]	Texas Alcoholic Beverage Code Chapter
Daily Temporary Mixed Beverage Permit (Per Day) [TB]	Ch. 30
Daily Temporary Private Club Registration Permit [TN]	Ch. 33
Temporary Charitable Auction Permit [CA]	Ch. 53
Temporary License	Ch. 72

(g) A secondary permit or license which requires the holder to first obtain another permit, including a late hours permit, expires on the same date as the primary permit expires. A temporary permit or license expires on the date indicated on the license or permit or the same date as the primary permit, whichever occurs earlier. The fees for a secondary or temporary permit or license may not be prorated or refunded.

Attachment 5

New Rules Relating to Permit Fees

NEW RULE FOR ADOPTION

§33.26. Manufacturer's Agent's Warehousing Permit Fee. The annual fee for a manufacturer's agent's warehousing permit under Chapter 55 of the Alcoholic Beverage Code shall be \$750.



CERTIFICATION

REGULAR COMMISSION MEETING

10:30 a.m. – August 22, 2008

5806 Mesa Drive
Austin, Texas 78731



STATE OF TEXAS

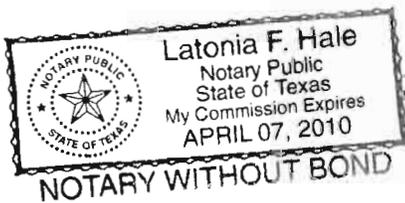
COUNTY OF TRAVIS

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 28th day of August 2008.



A handwritten signature in blue ink, appearing to read "Latonia F. Hale".

Latonia F. Hale
Notary in and for Travis County