COMMISSION MEETING

November 18, 2014

Texas Alcoholic Beverage Commission
5806 Mesa Drive
Austin, Texas 78731

José Cuevas, Jr., Presiding Officer
Midland

Steven M. Weinberg, MD, JD, Member
Colleyville

Ida Clement Steen, Member
San Antonio
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AGENDA

REGULAR COMMISSION MEETING

10:00 a.m. – November 18, 2014

8611 N Mo Pac Expressway
Austin, TX 78759
# Agenda

**Tuesday, November 18, 2014**
**10:00 a.m.**

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11. **Executive Session to Consult with Legal Counsel Regarding Pending and Anticipated Litigation Against the Agency and to Deliberate on the Appointment, Employment, Evaluation, and Duties of the Positions of Executive Director and General Counsel (Government Code §551.071, §551.074)**

José Cuevas, Jr.

12. **Next Meeting Date: January 27, 2015**

José Cuevas, Jr.

13. **Adjourn**

José Cuevas, Jr.

**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 Gloria Darden Reed at (512) 206-3221 (voice) (512) 206-3259 (fax) Relay Texas at 1-800-735-2989 (TTY/TDD), at least three (3) days prior to the meeting so that appropriate arrangements can be made.
The Commissioners of the Texas Alcoholic Beverage Commission (TABC) met in Regular Session on Tuesday, November 18, 2014 at the Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Suite 185, Austin, Texas.

COMMISSIONERS PRESENT:  
José Cuevas, Jr.  
Steven Weinberg, MD, JD  
Ida Clement Steen

STAFF PRESENT:  
Sherry Cook, Executive Director  
Gene Bowman, Director, Audit & Investigations Division  
David Brandon, Assistant Director, Information Resources Division  
Mindy Carroll, Director, Education & Prevention Division  
Dustin Carter, Quality Assurance Specialist, Ports of Entry Division  
Cathleen Cavazos, Lieutenant, Austin Enforcement Division  
Amanda Collins, Regional Supervisor, Arlington Regional Audit Office  
Marc Decatur, Major, Houston Regional Enforcement Office  
Luann Dickerson, Executive Assistant, Executive Division  
Loretta Doty, Director, Human Resources Division  
Shelby Eskew, Director, Business Services Division  
Diana Figueroa, Executive Assistant, Office of Professional Responsibility  
Keon Flowers, Recruiter, Human Resources Division  
Tiffany Forister, Human Resources Specialist, Human Resources Division
Kayla Bridgewaters, Education Specialist, Education & Prevention Division
Thomas Graham, Director, Tax & Marketing Practices Division
Amy Harrison, Director, Licensing Division
Emily Helm, General Counsel, Legal Division
Joe Iagnemmo, Web Design Administrator, Information Resources Division
Richard Jauregui, Major, San Antonio Regional Enforcement Office
Dexter Jones, Assistant Chief, Audit & Investigations Division
Joann Joseph, Assistant Director, Licensing Division
Edward LeBlanc, System Support Specialist, Information Resources Division
Andrea Maceyra, Marketing Practices Supervisor, Tax & Marketing Practices Division
Vanessa Mayo, Assistant Director, Business Services Division
Mariann Morelock, Governmental Relations
Harold Nanos, Captain, Austin Enforcement Division
Earl Pearson, Assistant Chief, Enforcement Division
Andy Peña, Director, Office of Professional Responsibility
Gloria Darden Reed, Executive Assistant, Executive Division
Robert Saenz, Chief of Field Operations
Karen Smithwick, Director, Ports of Entry Division
Ed Swedberg, Deputy Executive Director, Executive Division
Ron Swenson, Captain, Special Investigations Unit
Todd Talley, Regional Liaison, Field Operations
Jay Webster, Director, Information Resources Division
Martin Wilson, Assistant General Counsel, Legal Division

GUESTS PRESENT:

Ryan Bissett, Licensing Team Leader, Whole Foods Market
Dewey Brackin, Attorney, Gardere Wynn Sewell
Vic Brooks, Vice President, Republic National Distributing Company
Tristan Castaneda, Governmental Relations, AB-InBev
Jason Cooper, Vice President, Brookshire Grocery/BGC Beverage
Doug Davis, Vice President, Wholesale Beer Distributors of Texas
Rick Donely, President, The Beer alliance of Texas
Jim Dow, Texas Craft Brewers Guild
Alan Gray, Texas Advocacy & Consulting
Steve Greinert, Wholesale Beer Distributors of Texas
Cheri Huddleston, Legislative Consultant, Glazer’s
CALL TO ORDER

The meeting of the Texas Alcoholic Beverage Commission was called to order at 10:02 a.m. by Presiding Officer José Cuevas.

APPROVAL OF COMMISSION MINUTES OF SEPTEMBER 23, 2014

Presiding Officer Cuevas called for approval of the Commission meeting minutes of September 23, 2014. Commissioner Steven Weinberg so moved to approve the minutes as written. Commissioner Ida Clement Steen seconded. The motion carried.

COMMISSION REPORT: EXECUTIVE DIRECTOR AND AGENCY ACTIVITIES, BUDGET ISSUES, STAFF ACHIEVEMENTS, LEGISLATIVE ACTIVITIES

Presiding Officer Cuevas called upon Executive Director Sherry Cook to present the Commission Report: Executive Director and Agency Activities, Budget Issues and Staff Achievements, and Legislative Activities.

After welcoming the Commissioners back to Austin, Executive Director Sherry Cook began her report with the introduction of two new staff members. Executive Director Cook reminded the Commissioners that Merideth Munoz and Carolyn Beck had left the Agency to pursue other interests. She stated that replacing Ms. Munoz as our new Marketing Practices Supervisor is Andrea Maceyra and replacing Carolyn Beck as our new Communications and Governmental Relations Director is Mariann Morelock. Executive Director Cook added that she is excited to have both women join the TABC Team.

Executive Director Cook continued her report with a briefing on the upcoming Legislative Session. She stated that pre-filing began November 10th and the Agency is tracking nine bills, six of which the Agency has already received requests for fiscal notes. She added that 463 bills have been filed. Executive Director Cook noted that the regular session will begin January 13, 2015 and is scheduled to end June 1, 2015. She advised that any special sessions would follow the regular session. Executive Director Cook stated that the bills the Agency is currently tracking relate to concealed handguns and law enforcement inquiries relating to immigration status.
Executive Director Cook advised the Commissioners that now with her team in place, an internal strategy meeting for the upcoming session has been scheduled for December 1, 2015. The meeting will involve bill tracking, identifying subject matter experts and naming staff that will testify on certain bills at committee hearings. She stated that this information will be part of the legislative briefings that will be presented at the Commission meetings throughout the session. She added that the Agency has a great team in place and she is anticipating a good session.

Commissioner Weinberg requested that the Agency be watchful for any legislation pertaining to funding going from TABC to Grayson College.

Executive Director Cook responded that Grayson College has been a topic of discussion in all of the meetings the Agency has been having with legislators in preparation for the session. She agreed with Commissioner Weinberg and stated the Agency will be tracking any legislation on this topic.

Presiding Officer Cuevas commented that if the funding is attached to legislation, the Agency does not have a position on whether or not Grayson College receives the funding as long as it is funded appropriately. Executive Director Cook agreed with Presiding Officer Cuevas. She stated that has been the Agency’s position in the conversations with Legislators.

Commissioner Weinberg advised that the Agency should be in contact with the person most likely to introduce that bill. Executive Director Cook responded that contact has been in communication with that office and we have asked that they work with our Agency on the funding mechanism if it is carried forward.

Executive Director Cook next briefed the Commissioners on significant activities of the Agency.

Executive Director Cook spoke on how we continue to give back as an agency. She stated that Diana Figueroa, Executive Assistant in the Office of Professional Responsibility, coordinated this year’s State Employee Charitable Campaign (SECC). She added that she did an outstanding job and the campaign raised almost $22,000 that went to a variety of charities.

Executive Director Cook next discussed the Agency’s participation in a security self-assessment plan. She stated that this plan identifies vulnerabilities by answering a series of questions that are driven by statute. She added that this assessment supports one of the Agency’s exceptional items in regards to weaknesses in the Agency’s security infrastructure. She stated that the Agency is asking for this funding to harden our security infrastructure to protect information that has been entrusted to the Agency. Executive Director Cook noted that the Information Resources Division has done an excellent job of already remediating some of these areas with existing resources. She added that the Agency does need the additional funding to further harden this infrastructure.

Executive Director Cook advised the Commissioners that the newest grant project, funded by the Texas Department of Transportation (TxDOT), began October 1, 2014.
She stated that this funding from TxDOT allows the Agency to create educational videos. She added that she is continually amazed at the projects the Education and Prevention Division are able to produce.

Executive Director Cook stated that this past summer she and her husband Maurice volunteered their home to be the backdrop for a public service announcement dealing with the consequences of providing alcohol to minors. She added that the video shoot was a great experience and the video will be released to the public before Spring Break and throughout the summer months. The video was then played at the Commission meeting. This video can be viewed on the TABC YouTube Channel. Executive Director Cook stated that the Education and Prevention Division is currently working on a holiday campaign to remind everyone to be responsible and safe during the holiday season.

Moving on to the next topic in her report, Executive Director Cook spoke on Agency trends. She stated that in FY 2014, the Agency has conducted 1,490 field audits. She added that the number of audits have trended downward in recent years. Executive Director Cook attributed the decline in audits to several factors:

- Decrease in the number of auditors due to turnover and reassignment to the Special Investigations Unit (SIU)
- Decline in the number of certain types of auditable accounts
- Change of Agency priorities requiring auditors to devote more time to inspections, investigations, and public education

Executive Director Cook noted that these changes have not had a negative impact on compliance rates. She added that the Agency will continue to look at the audit staff and determine if there are other areas in the Agency to shift resources. Executive Director Cook stated that recently key auditors throughout the state have been identified to focus solely on marketing practice type tier violations. She added that the Agency is investigating more complex cases involving inner-tier violations that require more time and expertise.

Executive Director Cook continued her report on Agency trends. She stated that in FY 2014 Ports of Entry (POE) revenues exceeded the totals achieved in FY 2013. The increase is attributable to the revenues generated at the Sea Ports and Laredo POE District. She added that the other five POE Districts have all posted revenue losses in FY 2014.

Executive Director Cook advised that declining cigarette importation is a chief cause of the revenue losses at most of the border districts. She stated that the two factors driving this change are the continued violence along the Texas/Mexico border and an increase in cigarette taxes in Mexico. She added that it is no longer cost effective to purchase cigarettes in Mexico to be brought back across the border for resale.

Continuing with trends, Executive Director Cook stated that in FY 2014 almost seven hundred million gallons of alcohol flowed through the state. She added that it is
interesting what consumers are buying. Executive Director Cook noted that while beer sales have not rebounded from the dip they took in FY 2010, malt liquor sales have enjoyed a sales growth of almost five percent. She stated that although there has been a drop in wholesale sales of alcohol, there continues to be an increase of over four million dollars in excise taxes collected. She added that due to higher alcohol content, malt liquors are taxed at a higher rate. Executive Director Cook stated that there has been tremendous growth in the manufacturing tier. She added that the manufacturing tier has almost doubled since FY 2009.

Executive Director Cook stated that at the end of FY2014 there was a slight drop in the number of licensed retailers, but in first quarter of FY 2015 licensed retailers are already beginning to rebound. She added that it is anticipated that licensed retailers will completely rebound and exceed FY 2013 totals.

Executive Director Cook stated that over the next biennium it is anticipated there will be over seven hundred million gallons of alcohol flowing through this state. She stated that the Agency’s resources will be challenged regulating our mission.

- Protecting the public
- Promoting the legal and responsible consumption of alcohol
- Ensuring fair competition
- Ensuring enforcement of the code
- Ensuring timeliness as it relates to the licensing and permitting process
- Promoting compliance
- Education, making sure current and future industry members understand the rules and laws surrounding their industry

Executive Director Cook stated that there is a very delicate balance between economic growth, public health and safety.

Executive Director Cook reported that in FY 2014 the Agency had eleven still seizures. She stated that this product is unregulated and can be harmful to the citizens of Texas. She added that although eleven stills were seized, the actual quantity produced was small. Executive Director Cook stated that this is a growing problem in some states and the Agency will continue our efforts to keep this product out of the Texas market.

In concluding her report, Executive Director Cook showed an example of a poster that the Education and Prevention Division has been working on for the holiday campaign. She added that the Texas Department of Transportation has partnered with TABC to provide the printing for the campaign.

Presiding Officer Cuevas requested that the Agency look into how a slowing energy economy, especially in West Texas, could impact Texas.
Executive Director Cook agreed with Presiding Officer Cuevas that declining oil prices will have an impact on Texas.

Administrator Cook’s report is supported by a PowerPoint presentation. (Attachment 1)

PROMOTIONAL RECOGNITION- DAVID BRANDON, ASSISTANT DIRECTOR, INFORMATION RESOURCES DIVISION; ALBERT RODRIGUEZ, DIRECTOR, TRAINING DIVISION

Presiding Officer Cuevas called upon Deputy Executive Director Ed Swedberg to come forward to present the next agenda item, “Promotional Recognition- David Brandon, Assistant Director, Information Resources Division; Albert Rodriguez, director, Training Division. Deputy Executive Director Swedberg asked both gentlemen to come forward and be recognized. He briefly read the bio on each man and spoke on their agency contributions. Presiding Officer Cuevas, Commissioner Weinberg and Commissioner Steen congratulated both Director Rodriguez and Assistant Director Brandon on their promotions.
RECRUITMENT AND HIRING REPORT

Presiding Officer Cuevas called upon Human Resources Director Loretta Doty and Human Resources Generalist Tiffany Forister to come forward and present the next agenda item, Recruitment and Hiring Report. Director Doty introduced Ms. Forister as the HR Lead in the Human Resources Division. She stated that she and Ms. Forister will be presenting the Annual Recruitment and Hiring Report.

Ms. Forister began the annual report by briefing the Commissioners on the recruitment efforts over the last year. She stated that since the implementation of the online applicant tracking system, NeoGov, in September of 2013, the number of applications has doubled and more vacancies are being filled with fewer job postings.

Online Application System (NeoGov) FY 2014
- Received 5400 online applications
- Filled 105 positions utilizing 140 postings

Paper Intensive Application Process FY 2013
- Received 2700 paper applications
- Filled 71 positions utilizing 176 postings

Ms. Forister introduced the Agency’s new recruiter, Keon Flowers. She stated that Mr. Flowers was hired in February of 2014 and in the short time he has been at TABC; his efforts have been a huge benefit to the Agency.

Ms. Forister stated that Mr. Flowers has established a recruitment program that includes contact with colleges/universities, community organizations, law enforcement entities and professional organizations. She added that in his first six months he attended a total of thirty-three university, military or law enforcement career fairs and community events. Ms. Forister stated that of the five hundred and forty-two applicants recruited by Mr. Flowers, approximately three hundred and nineteen were qualified applicants and four were hired.

Ms. Forister stated that Mr. Flowers assisted in implementing a year round agent trainee hiring process which has resulted in over eight hundred applications since it was posted in June of 2014. She added that the average number of agent trainee applications typically received is close to two hundred and fifty. Ms. Forister stated that three hundred and eighty of those applicants have already gone through the process resulting in fourteen hires currently in the TABC Agent Trainee Academy. She added that these Agent Trainees will graduate in December. She stated that by having a year round hiring process, agent trainee applicants are able to move through the process without having to wait for the 15 day posting period.

Ms. Forister stated that Mr. Flowers is currently working on implementing a License and Permit Specialist internship pilot program. She added that the Agency hopes to utilize this program to lower job turnover rates and reduce multiple job re-postings.
Ms. Forister stated that applicants must be in the semester directly prior to graduation, have a 2.5 grade point average or above, a letter of recommendation and compete in an interview process. She added that this program is due to start in January 2015 with hopes that it will be expanded to other divisions in the Agency.

Ms. Forister continued her report by giving an overview of Agency vacancies for the year. She stated that all divisions remain focused on filling vacancies as quickly as possible. She added that at the beginning of FY 2014 the Agency had sixty-one vacancies, but by the end of October the Agency was down to forty-one and a half vacancies. This is the fewest number of vacancies the Agency has had in three years.

Presiding Officer Cuevas quizzed Ms. Forister if the positions were certified peace officer or Agency wide positions. Ms. Forister responded that the positions were across all divisions.

Presiding Officer Cuevas quizzed Ms. Forister to validate if the Agency was trying to fill fourteen vacancies or were there only fourteen eligible for hire out of a pool of three hundred and eighty applicants. Ms. Forister responded that there fourteen positions originally posted and the Agency hired three more applicants than planned.

Deputy Executive Director Ed Swedberg also responded to Presiding Officer Cuevas’ question by stating that the Agency actually had more qualified candidates than agent trainee positions available.

Ms. Forister continued her report with a hiring overview for FY 2014. She stated that there were a total of one hundred and five employees hired in FY 2014. She added that eighty-one were external hires and twenty-four were internal hires.

- 67 regular employees
- 14 temporary employees
- 24 Internal Hires

Ms. Forister stated that during FY 2014, eighty-one external employees were hired. She added that the percentage of hires in each demographic is closely aligned with the overall representation of TABC employee demographics with the exception of black hires and female hires which were higher than the overall agency representation. Ms. Forister provided a demographic breakdown of hires for FY 2013 and FY 2014.

Presiding Officer Cuevas commented that he is pleased with the growth, but would like to understand why Hispanics had such little growth. Ms. Forister responded that she did not include internal hires in her report. She added that Hispanics were the largest demographic group to promote in the Agency.

Executive Director Cook responded that she is pleased with Mr. Flowers’ recruiting efforts, but noted that the Agency is losing applicants during the hiring process. Executive Director Cook stated that the interview boards are being re-evaluated to assure that they are diverse and represent Texas. She added that the Agency is also
re-evaluating our testing structure. She stated that the Agency is continually working to identify what is hindering some of our recruiting efforts.

Human Resources Director Loretta Doty presented the last topic of the report with a summary of how the TABC workforce compares to the statewide numbers that are available from the Texas Workforce Commission. She stated that in the ten years she has been presenting this report, the Agency continues to show marked improvement in all categories. She commented that we are a better agency because of this. Director Doty announced that this would be her last time to give this annual report as she plans to retire by the end of August.

Director Doty stated that the Agency has exceeded minority representation statewide in the category of Professional, but was underutilized in minority representation statewide in the categories of Official Administrator, Service/Maintenance, and Technician. She added that the Agency will continue to make improvements in these recruitment efforts. Director Doty stated that overall the Agency is doing a very well.

Director Doty stated the Agency exceeded statewide in female representation in the categories of Official/Administrator and Administrative Support, but was underutilized in female representation in the categories of Professional, Service/Maintenance, and Technician. She added that the Agency will also continue to make improvements in these recruitment efforts as well.

Director Doty stated that overall the TABC workforce represents the State of Texas and she is proud to be part of such a diverse organization.

Presiding Officer Cuevas congratulated Director Doty on her upcoming retirement.

Commissioner Weinberg also congratulated Director Doty on her upcoming retirement and thanked her for doing a great job for the Agency. He added that she will be missed. Commissioner Weinberg stated that he has appreciated Director Doty’s reports.

Commissioner Weinberg stated that he hopes our vacancy numbers continue at the present levels. He added that it is important to maintain our vacancy numbers so the Legislative Budget Board (LBB) does not lower the Agency’s FTEs due large numbers of vacancies.

Commissioner Weinberg quizzed Director Doty and Ms. Forister on how the online application process is working out for the Agency and for the Human Resources Division.

Ms. Forister stated that she feels it is going very well. She added that it has been a huge help in creating reports.

Director Doty stated that overall; the Human Resources Division is pleased with the online application process.
Commission Weinberg stated that he is also pleased with process and hopes the Human Resources Division is as well.

Presiding Officer Cuevas stated that he the Agency's diversity has changed 100%. He added that John Steen, former TABC Presiding Officer, was a big promoter of the Agency having the same representation as the State of Texas.

Presiding Officer Cuevas thanked Director Doty and Ms. Forister for their report.

*Director Doty’s report is supported by a PowerPoint presentation.*

(Attachment 2)

**ISSUANCE OF A COMMISSION ORDER TO PROHIBIT THE POSSESSION OF AN OPEN CONTAINER OR THE PUBLIC CONSUMPTION OF ALCOHOLIC BEVERAGES IN THE DESIGNATED CENTRAL BUSINESS DISTRICT OF THE CITY OF FARMERSVILLE, TEXAS PURSUANT TO TEXAS ALCOHOLIC BEVERAGE CODE §109.35(b)**

Presiding Officer Cuevas called upon General Counsel Emily Helm to come forward and present the next agenda item. General Counsel Helm addressed the Commission on behalf of the City of Farmersville petitioning the Commission under §109.35(b) of the Texas Alcoholic Beverage Code for an Order prohibiting the possession of an open container or the public consumption of alcoholic beverages in the Central Business District (CBD) of the city.

General Counsel Helm stated that the Commission received a letter from the city secretary dated September 18, 2014 requesting the Order. She added that the designation was done through a resolution which identified the boundaries of the Central Business District and states that the city finds that it is a risk to the health and safety of its citizens of Farmersville to have alcoholic beverages and open containers in the Central Business District.

General Counsel Helm stated that when a city provides all the documentation the Commission is required to issue the Order. She added that the city of Farmersville has provided all the required documentation and the Commission is being asked to approve and issue the Order without further consideration.

**Commissioner Weinberg moved that the Commission approve the petition by the City of Farmersville for an Order that prohibits the possession of an open container or the public consumption of alcoholic beverages in the designated Central Business District of the City of Farmersville described in the exhibits attached to the City of Farmersville’s Resolution- No. R-2014-0812-001**

Commissioner Steen seconded and the motion passes.
Director of Business Services Shelby Eskew presented the next agenda item, Act on Request for Approval to Exceed Capital Budget.

Director Eskew stated that she is requesting approval for TABC to submit a request to both the Legislative Budget Board (LBB) and the Governor’s Office for authorization to exceed Capital Budget Limitations as outlined in the General Appropriations Act.

Director Eskew stated that this year TABC has used current Capital Budget Authority for two projects. She added that one was an IT project to enhance the Agency’s case management system and the other project was an equipment purchase for new telephone systems for some of the field offices. Director Eskew stated that in FY 2015, the Agency received a grant from the Texas Department of Transportation (TxDOT) which totaled over $438,000 to promote retailer integrity through educational projects. She added that one of the line items in the grant application was for video production of educational materials at the cost of just over $146,000.

Director Eskew stated that the cost of this project and project description does meet the Capital Budget definition as outlined in the General Appropriations Act. She added that a draft copy of the letter for TABC to request authority to exceed Capital Budget Limitations FY 2015 is included in each Commissioner’s packet.

Director Eskew stated that as a result of the last Legislative Session, a rider was given that stipulates that a request to exceed Capital Budget Authority shall be considered approved unless a written disapproval is received from the Legislative Budget Board (LBB) within forty-five days of the notification.

Director Eskew stated that upon the approval of the TABC Commissioners, she will submit the request to the Legislative Budget Board and Governor’s Office and if a written response is not received by January 3, 2015, which is the forty-fifth day, the request will be treated as approved.

Director Eskew stated that this rider gives the Agency a provision that if no response is received, the request will be treated as approved. She added that during FY 2012, TABC was given a grant for law enforcement radios totaling $500,000. Director Eskew stated that no response was received from the LBB and the Agency had to return that funding as no authority had been given to use the funds. She added that the Agency requested this rider be added to our bill pattern going forward.

Commissioner Steen moved that the Commission approve the request to exceed capital budget limitations. Commissioner Weinberg seconded and the motion passes.
Presiding Officer Cuevas called on Deputy Executive Director Ed Swedberg to present the next agenda item, TABC Administrative Rulemaking Status.

Deputy Executive Director Swedberg stated that per the Commissioners’ request, he would be providing an update on the Rule Review Plan. He added that the Agency does have an Internal Rule Review Committee and what he is presenting today is a collaborative effort of himself, General Counsel, Field Operations, Licensing, Tax & Marketing Practices and Governmental Relations.

Deputy Executive Director Swedberg stated that at the last Commission meeting Executive Director Cook presented a high level briefing on the rule review process. Deputy Executive Director Swedberg added that his briefing today would provide the Commissioners a more detailed look on how the process works as well as the Rule Review Schedule for CY 2015.

Deputy Executive Director Swedberg stated that in Executive Director Cook’s previous presentation she discussed the key concepts of the process including the many sources of proposed rule reviews, multiple opportunities for external stakeholder input during the rule review process, and the Commissioners role during the rule making process. He added that there are exceptions to the process. Deputy Executive Director Swedberg stated that as the process is refined it will be important to be clear in how the Agency handles these exceptions.

Deputy Executive Director Swedberg continued his presentation by explaining the rule making process. He stated that proposed rule reviews are initiated through external, internal, or mandated sources. He added that the Government Code requires a rule to be reviewed every four years. Deputy Executive Director Swedberg stated that if a rule review has been initiated internally or by mandate, the rule is brought before the Rule Review Committee where it is analyzed by staff. He added that external entities are also given the opportunity to come forward and provide comment through Stakeholder meetings. Deputy Executive Director Swedberg stated that Stakeholder meetings are an opportunity for two way communication between staff and external entities. He added that once all input is received, the proposed rule is brought to the Commissioners at a Commission meeting.

Deputy Executive Director Swedberg stated that a rule review can be initiated through an external source as a petition for rulemaking. He added that the petition can either be brought to the Commissioners as written, or the external entity can work with staff to craft the proposed rule changes to be brought to the Commissioners. He stated that the external entity can request a Stakeholder meeting be scheduled on their proposed rule changes.

Deputy Executive Director Swedberg stated that once the proposed rule is brought to the Commissioners they have the option to deny the motion, approve to publish on the Secretary of State website, or send the proposed rule back to staff. He added that the public can also provide comment to the Commission at this time.
Deputy Executive Director Swedberg stated that when a proposed rule is approved to publish by the Commissioners it is posted on the Secretary of State website for a comment period of thirty days. He added that this is an additional opportunity for external entities to provide feedback to the Commission. Deputy Executive Director Swedberg stated that the Agency may hold a public hearing on proposed rules posted on the Secretary of State website to obtain additional comment.

Commissioner Weinberg quizzed Deputy Executive Director Swedberg if this is the same chart that was sent to the Commissioners the week prior.

Deputy Executive Director Swedberg responded to the negative. He added that it has been revised.

Commissioner Weinberg quizzed Deputy Executive Director Swedberg as to when the chart was revised.

Deputy Executive Director Swedberg responded that the chart was revised yesterday to reflect all the different options.

Deputy Executive Director Swedberg stated that once all internal and external input is obtained, the proposed rule language is updated and brought back to the Commissioners for a decision to withdraw, approve to adopt, or request that the proposed rule go back to staff for additional analysis.

Deputy Executive Director Swedberg stated that the Agency’s process meets statutory requirements.

Commissioner Weinberg commented that he appreciates Deputy Executive Director Swedberg’s presentation and encourages the Agency to keep the Commissioners informed throughout the rule review process.

Deputy Executive Director Swedberg continued his presentation with the rule review schedule. He stated that by Government Code a rule must be reviewed every four years after the rule takes effect. He added that staff has identified a significant number of rules that are out of compliance and need to be reviewed.

Deputy Executive Director Swedberg stated that a Rule Review Plan has been created.

- Identify rules exceeding the “4 year review” Government Code requirement
- Assess each rule for complexity, relevance and potential for necessary changes
- Develop schedule for presentations to Commissioners during board meetings in CY2015
• Defer review of more complex rules until non-legislative session year (CY2016)
• Reserve time and resources in summer and fall of Cy15 for rule updates due to legislative changes
• Be prepared to modify schedule based on ad hoc requirements

Deputy Executive Director Swedberg read through the schedule of rules to be reviewed organized by Commission meeting dates. He added that the first rules to be reviewed will be the rules that require minor or no changes and rules that are already moving through the review process.

General Counsel Emily Helm stated that Stakeholder meetings will not be scheduled for all rules requiring minor or no changes.

**Commissioner Weinberg recommended that the Commissioners consider scheduling an extra Commission meeting to address only rule review to accommodate the number of rules that need to be reviewed in 2015.**

Deputy Executive Director Swedberg stated that beginning at the July Commission meeting and continuing throughout the remainder of 2015 there will be rules requiring major changes. He added that that beginning in CY2016 the more complex rules will be reviewed.

Commissioner Weinberg quizzed Deputy Executive Director Swedberg if the rules to be reviewed in CY 2016 are out of compliance with the Government Code requirement. Deputy Executive Director responded to the affirmative.

Commissioner Weinberg restated his idea to schedule an additional Commission meeting to address only rule review. He added that the Commissioners would need to make that decision today to allow time for staff to prepare.

Presiding Officer Cuevas stated that the decision did not need to be made at today’s meeting. He added that the rule review scheduled for CY 2015 consists of rules needing minor or no changes and can be accomplished without an extra Commission meeting. Presiding Officer Cuevas stated that an extra meeting could be discussed again in November of 2015 as more complex rules are to be reviewed in CY2016.

General Counsel Helm advised the Commissioners that any changes that come out of the Legislative Session will be need to be addressed during the summer months.

Deputy Executive Director Swedberg stated that he can provide the Commissioners regular updates as to how the rule review schedule is progressing.

Presiding Officer Cuevas stated that the rule review plan will continue as scheduled.
Deputy Executive Director Swedberg’s report is supported by a PowerPoint presentation. (Attachment 3)

ACT ON PETITION FOR RULEMAKING TO AMEND RULE §33.5, FOOD AND BEVERAGE CERTIFICATE

Presiding Officer Cuevas called on Assistant General Counsel Martin Wilson to present the next agenda item, Act on Petition for Rulemaking to Amend Rule §33.5, Food and Beverage Certificate.

Commissioner Weinberg stated that he would make the motion and then open the topic for discussion.

Commissioner Weinberg moved to accept the petition for rulemaking to amend rule §33.5, Food and Beverage Certificate be published in the Texas Register for a 30 day comment period.

Presiding Officer Cuevas stated that he would prefer to call up the agenda item and have discussion before the motion.

Assistant General Counsel Martin Wilson stated that a petition has been filed by Attorney Dewey Brackin on behalf of his clients, Whole Foods and Brookshire Brothers to amend the definition of “Food Service” in the Food and Beverage Certificate Rule.

Assistant General Counsel Wilson suggested that Mr. Brackin come forward and present his case.

Presiding Officer Cuevas was in agreement with that suggestion and stated that there were others who have signed up to give public comment on this agenda item.

Mr. Brackin, representing Whole Foods and Brookshire Brothers, came forward and stated that he is proposing to change the definition of “Food Service” in §33.5, Food and Beverage Certificate Rule. He stated that his clients are requesting a minor change to this rule in order to accommodate a situation they are incurring in some of their locations on East and North Texas that have a full restaurant within the grocery store. He added that his change would allow the “Food Service” definition to include grocery stores.

Mr. Brackin stated that currently, a restaurant within a grocery store is permitted differently and treated as an entirely separate area. Alcohol purchased in the restaurant area (on premise) cannot be consumed in the grocery area (off-premise) of the store. Mr. Brackin explained that designating a separate area in the store is burdensome and comes with higher building costs and additional compliance regulations.
Mr. Brackin stated that their goal is to gain this exception that will only apply to large grocery stores over 30,000 square feet which would include the large grocery stores that have full restaurants inside the store. He added that this rule change would also help Agency Staff by reducing licensing and compliance requirements.

Mr. Brackin reiterated that this is a minor revision to the rule and he and his clients hope that the Commissioners approve their petition to publish the amendment to §33.5, Food and Beverage Certificate in the Texas Register. He added that he and his clients are happy to work with Agency Staff or members of the alcohol community.

Commissioner Weinberg confirmed with Assistant General Counsel Wilson that Mr. Brackin’s clients are entitled to have the Agency schedule a Stakeholders meeting for this rule before it is published.

Assistant General Counsel Wilson responded that when rule changes are generated internally, a Stakeholders meeting can be scheduled to receive comment before a rule is published in the Texas Register. He added that while historically this has not been the case with petitions for rulemaking, a Stakeholders meeting can be scheduled in this situation as well.

Commissioner Weinberg noted that timing is an issue as there is not another board meeting for sixty days. He stated that he would like more time to review this petition. He added that he recommends a Stakeholders meeting. Commissioner Weinberg proposed to Mr. Brackin that the petition be withdrawn, have a Stakeholders meeting and bring the petition back to the January Commission meeting.

Presiding Officer Cuevas stated that we must consider what the Dallas voters were presented and how they voted. He added that the Agency is now being asked to change the rule to include grocery stores. Presiding Officer Cuevas stated that it is clear how the Dallas voters voted. He stated that Mr. Brackin’s clients can get this corrected through the Legislature or take it back to the voters.

General Counsel Emily Helm stated that one year after a local option election is held, there are always opportunities in May and November for an item to be brought to the voters.

Presiding Officer Cuevas commented that there is a solution, but he is not sure it falls within the Agency’s authority.

Mr. Brackin stated that today he is only requesting that the petition be approved to publish in the Texas Register for public comment. He added that he is not requesting the Agency adopt the amendment to the rule at today’s meeting.

Presiding Officer Cuevas stated that even if the Agency receives positive feedback on the proposed rule change, it does not empower the Agency to override the voters.
Commissioner Weinberg inquired if Mr. Brackin’s clients would withdraw the petition and have a Stakeholders meeting. Mr. Brackin responded that he could not answer that question without speaking to his clients first.

Presiding Officer Cuevas called upon Mr. Brackin’s clients to come forward. Mr. Brackin and his clients requested to step out of the meeting for a brief discussion.

Commissioner Weinberg inquired if the Agency could schedule a Stakeholders meeting in the next couple of months. General Counsel Helm stated that a Stakeholders meeting can be scheduled, but Mr. Brackin’s clients will have to agree to have one.

Presiding Officer Cuevas requested that Assistant General Counsel Wilson present the staff opinion of the petition.

Assistant General Counsel Wilson stated that the Agency’s concern in holding a Stakeholder meeting is that the petition is based on policy reasons rather than working out the details of the petition. He added that the Commissioners do have the option to make the requested change. Assistant General Counsel Wilson stated that when the Legislature created the concept of the Food and Beverage Certificate their intent was that a Food and Beverage Certificate would be used primarily for restaurants. He added that the Agency defined “food service” in-line with the intent of the Legislature and the Legislature has continued to use the Agency’s interpretation.

Assistant General Counsel Wilson stated that the Legislature should be aware of the unintended consequences of a change to this rule. He added that the Legislature should have the option to review this proposed change.

Executive Director Cook stated that the legislative intent was to make sure an establishment was actually a restaurant and not a bar. She added that could easily occur and t was not the intent of the voters.

Mr. Brackin and his clients returned to the meeting. Mr. Brackin advised the Commissioners that his clients are willing to enter into a Stakeholder meeting at the earliest convenience of the Agency.

Presiding Officer Cuevas quizzed Assistant General Counsel Wilson what will change by having a Stakeholders meeting. Assistant General Counsel Wilson responded that the Agency will receive input and be able to raise concerns regarding the legislative intent.

Commissioner Weinberg stated that he would like to “cast a wide net” for attendees for this Stakeholder meeting. Assistant General Counsel Wilson stated that invitations would be sent out and a notice will be posted on the Agency’s website.

Presiding Officer Cuevas inquired what time frame a city would have to follow to get on the May ballot. General Counsel Helm responded that they would have start working on it now. She added that there are several items that have to take place.
before it would go on the ballot. General Counsel Helm explained specific information about local option elections including ballot language.

Mr. Brackin stated that his clients are not interested in having another local option election. He added that his clients request is consistent with what the voters have already voted on.

Presiding Officer Cuevas stated that he would like to hear the best recommendation from staff. General Counsel Helm responded that a Stakeholders meeting can be scheduled. She stated that she has concerns that the Agency does not have the authority to change the paradigm created by the 1995 legislation. She added that this change should not be done by rule, but by legislation.

Presiding Officer Cuevas inquired why there is a 30,000 square feet designation in the petition.

Executive Director Cook inquired if a legislative remedy was an option. Mr. Brackin responded that is an option, but not the preferred option.

Executive Director Cook stated that she is not sure the Agency has the statutory authority to make this change.

Mr. Brackin stated that after the discussion he thinks a Stakeholders meeting would be futile. He requested the Commissioners vote on the petition.

Presiding Officer Cuevas opened the floor to public comment.

Mr. Jason Cooper, representing Brookshire Brothers Grocery Company and BGC Beverage Company, came forward to make public comment. He advised that the companies he represents have been involved in these local option elections and would prefer not to go back to the voters due to the high costs they have already incurred from these elections. He added that he feels the voters have already voted in line with the rule change being requested of the Commission. He stated that they have had discussions with Senator Eltife and other Legislators on this topic. He added that he appreciates the assistance received from TABC staff. Mr. Cooper then outlined inconveniences his employees and customers are experiencing due to the licensing situation. He added that these inconveniences would be resolved with the rule change.

Mr. Cooper responded to Presiding Officer Cuevas’ earlier question by stating that the over 30,000 square feet designation in the amendment represents the size of the larger specialty grocery store market and is not meant to be exclusionary to anyone else in the industry.

Presiding Officer Cuevas thanked Mr. Cooper for his comments and expressed that he hopes an efficient solution can be found.

Presiding Officer Cuevas inquired if Senator Eltife would be willing to carry this bill. Mr. Cooper responded that there have been no formal discussions regarding bill
sponsorship. He added that are hopeful it will be resolved through a rule change by the Commission.

Commissioner Weinberg quizzed Assistant General Counsel Wilson what the timeline will look like if this petition is accepted today. Assistant General Counsel Wilson responded that once the petition is accepted, the normal rule making process begins. He added that a Stakeholder meeting would be a part of the process.

Executive Director Cook stated that after listening to testimony, it is obvious that the intent is not for these restaurants to ever be bars. She stated that a Stakeholder meeting may provide the opportunity for input as to how a rule or legislation would look and work together to reach that end goal, while not opening up a door that would allow bars into neighborhoods.

Commissioner Weinberg moved to accept the petition for rulemaking to amend rule §33.5, Food and Beverage Certificate be published in the Texas Register for a 30 day comment period. There was no second. The motion fails.

Executive Director Cook inquired if Mr. Brackin would consider withdrawing the petition. Mr. Brackin stated that he does not want to withdraw the petition and requests that the Commissioners vote on the petition.

Presiding Officer Cuevas inquired what the Agency’s options are today. Assistant General Counsel Wilson responded that the two options. The first option is to deny the petition and hold a Stakeholder meeting. The second option is to accept the petition, start the rulemaking process and hold a Stakeholders meeting.

Mr. Brackin stated that they would like to move forward with the process and publish the proposed rule amendment for public comment.

Commissioner Steen inquired what will happen if the motion is made to deny the petition. Assistant General Counsel Wilson responded that the Agency would commit to holding a Stakeholders meeting to have discussion on the topic.

Commissioner Weinberg moved to deny the petition for rulemaking to amend rule §33.5, Food and Beverage Certificate and hold a Stakeholders meeting on the proposal. Commissioner Steen seconded and the motion passes.

PUBLIC COMMENTS

Presiding Officer Cuevas opened the floor for additional comments before the Commission. No one came forward to address the Commission.
EXECUTIVE SESSION TO CONSULT WITH LEGAL COUNSEL REGARDING PENDING AND ANTICIPATED LITIGATION AGAINST THE AGENCY AND TO DISCUSS THE DUTIES, RESPONSIBILITIES, AND EVALUATION, DUTIES OF THE EXECUTIVE DIRECTOR AND GENERAL COUNSEL (Govt. Code §551.071, §551.074)

Presiding Officer Cuevas announced the regular open session of the Texas Alcoholic Beverage Commission will be recessed at this time, 12:39 p.m., November 18, 2014 and an executive session will 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 Executive Director and General Counsel (Govt. Code §551.071, §551.074)

The Texas Alcoholic Beverage Commission has concluded its Executive session and is now in open regular session. The date is November 18, 2014 and the time is 1:14 p.m. No final action, decision or vote was made in Executive session.

NEXT MEETING DATES

Presiding Officer Cuevas announced the next meeting date is scheduled for Tuesday, January 27, 2015. There will not be a meeting in December.

ADJOURN

Presiding Officer Cuevas called for a motion to adjourn. Commissioner Steen made a motion. Presiding Officer Cuevas seconded. The motion was made and seconded. The motion passes. Presiding Officer Cuevas announced that the meeting was adjourned at 1:14 p.m.
Attachment 1

Commission Report: Administrator and Agency Activities, Budget Issues, Staff Achievements, Legislative Activities
Commission Meeting November 18, 2014
Administrators Report
Sherry Cook
New Team Members

Marketing Practices Supervisor
Andrea Maceyra served as manager of economic development for the Austin Chamber of Commerce for more than five years. She also served as a board of director for the Foreign Trade Zone of Central Texas, Inc. Andrea graduated cum laude and received her B.B.A in journalism and mass communications, with emphasis in public relations and a minor in English from Texas State University.

Communications & Governmental Relations Director
Mariann Morelock holds a degree in Government from the University of Texas at Austin. Prior to joining TABC, Mariann served as Clerk for the Homeland Security and Public Safety Committee in the Texas House of Representatives. Mariann’s government experience began as Special Assistant to the Speaker of the Texas House of Representatives. She has served as Director of Information Services for seven years, developing an extensive understanding of state and local government, procurement practices, public information laws and legislative issues.
84th Legislative Session

- Monday, November 10, 2014
  - Prefilling of legislation for the 84th Legislature begins
    - TABC – Nine Bills Filed – Six requesting fiscal notes
    - 463 bills/joint resolutions have been filed.

Session Begins

- Tuesday, January 13, 2015 (1st day)
  - 84th Legislature convenes at noon

- Friday, March 13, 2015 (60th day)
  - Deadline for filing bills and joint resolutions other than local bills, emergency appropriations, and bills that have been declared an emergency by the Governor

- Monday, June 1, 2015 (140th day)
  - Last day of 84th Regular Session; corrections only in house and senate

Session Ends
Prefilling of legislation for the 84th Legislature

HB106 Relating to the authority of a person who is licensed to carry a handgun to openly carry the handgun; providing penalties

HB148 Relating to the consumption of alcoholic beverages on certain premises providing a penalty and authorization fee.

HB154 Relating to a prohibition on certain law enforcement inquires regarding the nationality or immigration status of a victim of or witness to a criminal offense.

HB164 Relating to the authority of a person who is licensed to carry a handgun to openly carry the handgun; providing penalties.

HB195 Relating to the Carrying of handguns.

HB226 Relating to certain offenses relating to carrying concealed handguns on property owned or leased by a governmental entity.

HB291 Relating to the authority of a person who is licensed to carry a handgun to openly carry the handgun; providing penalties.

HB308 Relating to the places that a person may carry a handgun if the person is licensed to carry a concealed handgun.

SB160 Relating to a prohibition on certain law enforcement inquires regarding the nationality or immigration status of a victim of or witness to a criminal offense.
Significant Activities

• Employee fundraisers and individual contributions netted $21,732 for the 2014 State Employee Charitable Campaign. Diana Figueroa of the Office of Professional Responsibility coordinated the agency’s statewide effort.

• The agency’s Security Self-Assessment (Agency Security Plan) submitted to the Department of Information Resources on October 8, 2014. IRD also completed the Legacy Systems Study required by HB2738 on October 28, 2014.

• The TABC’s newest grant project started Oct. 1, 2014 thanks to funding from TxDOT. The TxDOT grant allows for creation of a series of short videos related to selling and serving alcohol, an education campaign, and overtime for agents to conduct Source Investigations statewide.

(Video)
Trends

Factor's Influencing Audits:

- Decrease in the number of auditors
- A decline in the number of certain activities
- Changing agency priorities requiring auditors to devote more time to other activities, such as inspections, investigations, and public education
Trends

Cancellations for Cause
FY 2010 - FY 2014

Cancellations for Cause
By Originating Unit
FY 2014

Total = 201

Cancellations by License Type
FY 2014

Manufacturers & Wholesalers
2 - 1%

Off-Premises Retailers
37 - 18%

On-Premises Retailers
162 - 81%

AUD
19 - 9%

ENF
73 - 36%

SIU
17 - 9%

LIC
92 - 46%

Total = 201
POE Gross Revenues from All Districts
September - October

Change in Border Districts Importation
Volume & Revenue
From Sep-Oct FY 2014 to Sep-Oct FY 2015

AB Containers
Cigarette Pkgs
All Taxable Importations

# Taxable Importations
Gross Revenue

$102,571
Wholesale Sales of Alcoholic Beverages
FY 2005 - FY 2014

Changes in Gross Excise Tax Collections
From FY 2013 to FY 2014

Changes in Quantities Sold
From FY 2013 to FY 2014

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<tr>
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<th>FY2014</th>
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<tr>
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<td>147</td>
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<tr>
<td>Wineries</td>
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<td>311</td>
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</tbody>
</table>

Growth
SUBCHAPTER B. POWERS AND DUTIES

Sec. 5.31. GENERAL POWERS AND DUTIES. (a) The commission may exercise all powers, duties, and functions conferred by this code, and all powers incidental, necessary, or convenient to the administration of this code. It shall inspect, supervise, and regulate every phase of the business of manufacturing, importing, exporting, transporting, storing, selling, advertising, labeling, and distributing alcoholic beverages, and the possession of alcoholic beverages for the purpose of sale or otherwise. It may prescribe and publish rules necessary to carry out the provisions of this code.

(b) The commission shall:

1. protect the public safety by deterring and detecting violations of this code;
2. promote legal and responsible alcohol consumption;
3. ensure fair competition within the alcoholic beverage industry;
4. ensure consistent, predictable, and timely enforcement of this code;
5. ensure a consistent, predictable, and timely licensing and permitting process;
6. promote and foster voluntary compliance with this code; and
7. communicate the requirements of this code clearly and consistently.
Trends

Stills Seizures
FY 2005 - FY 2014
Wishing you a Safe and Happy Holiday!
Questions?
Attachment 2

Recruitment and Hiring Report
Human Resources
2014 thru 2015
Recruitment Efforts

Online Application System – FY 2014
– Received over 5400 online applications
– Filled 105 positions utilizing 140 postings

Paper Intensive Application Process – FY 2013
– Received 2700 paper applications
– Filled 71 positions utilizing 176 postings
Recruiter

Keon Flowers
Recruitment Efforts

Hired Recruiter in February 2014

– Established a Recruitment Program
– Attended 33 career fairs around the State
– Recruited 542 applicants who applied for TABC positions
– Assisted in implementing a year-round Agent Trainee hiring process
– Working on implementing a License and Permit Specialist internship program
Hires

- Positions filled FY 2014 - 105
  - 67 regular employees
  - 14 temporary employees
  - 24 internal hires
Hiring Statistics FY 2014

- White: 38
- Black: 17
- Hispanic: 26
- Female: 51
- Male: 30
Workforce Analysis

• Exceeded minority statewide availability
  – Professional

• Underutilized minority statewide availability
  – Official Administrator
  – Service/Maintenance
  – Technician
Workforce Analysis

• Exceeded female statewide availability
  – Official/Administrator
  – Administrative Support

• Underutilized female statewide availability
  – Professional
  – Service/Maintenance
  – Technician
TABC Employees by Ethnicity/Gender

- White: 298
- Black: 90
- Hispanic: 244
- Other: 10
- Male: 370
- Female: 272
Attachment 3

TABC Administrative Rulemaking Status
TABC Rule Review Plan

Ed Swedberg
Deputy Executive Director
11/18/2014
TABC Rulemaking Process (Part 1)

External Petition
- Stakeholder Petition for Rulemaking

Internal Initiative
- Commissioner-Approved Initiative
- Division Director Initiative
- Statutory Change

Mandated
- Government Code Review Requirement

Key:
- Opportunity for External Input
- Internal Process

Proposed Rule Language (Petitioner Option)
- Public Testimony
- Proposed Rule Language and Recommendation
- Additional Work Needed (If Applicable)

Decision
- Approval to Publish
- Denied

Secretary of State

TABC Staff
- Comments/Concerns
- Stakeholder Meeting

TABC Commissioners

Proposed Rule Language

Stakeholder Meeting

TABC Internal Rules Review Committee

External Stakeholder

Commissioner-Approved Initiative

Division Director Initiative

Statutory Change

Stakeholder Petition for Rulemaking

Proposed Rule Language (Petitioner Option)
TABC Rulemaking Process (Part 2)

Secretary of State ➔ 30-Day Post ➔ Public Comment Hearing ➔ Comments/Concerns ➔ Stakeholder Meeting ➔ TABC Staff

Key:
- Opportunity for External Input
- Internal Process

TABC Staff ➔ Updated Rule Language and Recommendation ➔ Additional Work Needed ➔ Decision

Decision ➔ TABC Commissioners ➔ Approval to Adopt ➔ Final Rule Becomes Effective

Public ➔ Testimony ➔ Withdraw ➔ Decision

Withdraw ➔ Final Rule Becomes Effective

Withdraw

Decision

Approval to Adopt

TABC Commissioners

Updated Rule Language and Recommendation

Additional Work Needed

TABC Staff

Stakeholder Meeting

Comments/Concerns

Public Comment Hearing

30-Day Post

Secretary of State
Sec. 2001.039. AGENCY REVIEW OF EXISTING RULES.  (a) A state agency shall review and consider for readoption each of its rules in accordance with this section.  (b) A state agency shall review a rule not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date. The adoption of an amendment to an existing rule does not affect the dates on which the rule must be reviewed except that the effective date of an amendment is considered to be the effective date of the rule if the agency formally conducts a review of the rule in accordance with this section as part of the process of adopting the amendment.  (c) The state agency shall readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section.
CY2015 Rule Review Plan

• Identify rules exceeding the “4 year review” Government Code requirement

• Assess each rule for complexity, relevance and potential for necessary changes

• Develop schedule for presentations to Commissioners during Board Meetings in CY2015

• Defer review of more complex rules until non-legislative session year (CY2016)

• Reserve time and resources in summer and fall of CY15 for rule updates due to legislative changes

• Be prepared to modify schedule based on ad hoc requirements
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<tr>
<th>Rule Chapter</th>
<th>Rule Title</th>
<th>Date Last Reviewed</th>
<th>Agency Lead</th>
<th>Expected Action</th>
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<td>33.32</td>
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<td>11/19/99</td>
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# March 2015 Rule Review

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<td>Population in Certain Counties</td>
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# May 2015 Rule Review

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## July 2015 Rule Review

<table>
<thead>
<tr>
<th>Rule Chapter</th>
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<tbody>
<tr>
<td>37.61</td>
<td>Suspensions</td>
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<td>Various</td>
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TBD: To Be Determined
# September 2015 Rule Review

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<tbody>
<tr>
<td>35.5</td>
<td>Private Carrier’s Permit Safety Program</td>
<td>8/16/96</td>
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<td>Major Changes</td>
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<td>41.11</td>
<td>Records in General</td>
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<td>Audit</td>
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# November 2015 Rule Review

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<tbody>
<tr>
<td>41.20 – 41.55</td>
<td>Records and Reports by Licensees and Permittees (29 Sections Not Previously Addressed)</td>
<td>Various</td>
<td>Tax &amp; Marketing</td>
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<td>Various</td>
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<td>33.5</td>
<td>Food and Beverage Certificate</td>
<td>8/18/95</td>
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<td>Warning Sign Requirements</td>
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<td>Citizenship and Status</td>
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<td>Use of Caterer’s Permits</td>
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<td>Financial Interest</td>
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<td>General Provisions</td>
<td>5/22/09</td>
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<td>Schedule of Sanctions and Penalties for Health, Safety and Welfare Violations</td>
<td>8/15/08</td>
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<td>34.3</td>
<td>Schedule of Sanctions and Penalties for Major Regulatory Violations</td>
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<td>Attribution of Actions of Employee to License or Permit Holder</td>
<td>8/13/10</td>
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<td>34.5</td>
<td>Mandatory Participation in Seller Server Certification</td>
<td>8/13/10</td>
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## CY2016 Rule Review

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<tr>
<td>35.1</td>
<td>Transportation of Alcoholic Beverages by Package Stores and Wine Only Package Stores</td>
<td>8/13/99</td>
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<td>35.2</td>
<td>Importation of Liquor</td>
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<td>Offenses Against the General Welfare</td>
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<td>Tax Stamps</td>
<td>8/18/95</td>
<td>Ports of Entry</td>
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<td>Mandatory Label Information for Malt Beverages</td>
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<td>45.76</td>
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<td>Sweepstakes and Games of Chance</td>
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<td>Restocking and Rotation of Alcoholic Beverages</td>
<td>9/11/98</td>
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<td>Advertising Signs at Charitable or Civic Events</td>
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<td>50.1 – 50.31</td>
<td>Alcoholic Beverage Seller Server Training</td>
<td>8/13/10</td>
<td>Education/Prevention</td>
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</tbody>
</table>
CERTIFICATION

REGULAR COMMISSION MEETING

10:00 a.m. – November 18, 2014

8611 N Mo Pac Expressway
Austin, TX 78759
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 November 18, 2014.

_________________________________
Sherry Cook
Administrator

Sworn and subscribed before me this the 20th day of February 2015.

__________________________________
Gloria Darden Reed
Notary in and for Travis County