

84th Legislative Session Legislative Update

September 22, 2015

- LICENSING -

HB 601 by Clardy

Effective
9/1/15

- Allows all buildings comprising a facility that meets specific criteria to be designated as the licensed premise for purposes of mixed beverage permit covering the facility
 - Target is Nacogdoches County Exposition and Civic Center

Adds AB Code: 28.135

- LICENSING -

HB 910 by Phillips

(as applicable to TABC)

Effective
1/1/16

- Strikes “concealed” in sections of Alcoholic Beverage Code pertaining to handguns in licensed/permitted premises
 - No change in where a handgun license holder can carry

Implementation:

- Update Industry Guide
- Update Interview Guidelines
- Update Warning signs (*aka blue sign and red sign*) and post on website

Amends AB Code: 11.041(a), 11.61(e), 61.11(a), 61.71(f)



NOTICE



The unlicensed possession of a handgun on these premises is a felony with a maximum penalty of 10 years imprisonment and a fine not to exceed \$10,000.

Texas Alcoholic Beverage Commission
P.O. Box 13127 - Austin, Texas 78711-3127
TOLL FREE 1 - 888 - THE - TABC



- FELONY NOTICE -



The licensed or unlicensed possession of a handgun on these premises is a felony with a maximum penalty of 10 years imprisonment and a fine not to exceed \$10,000.

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- LICENSING -

HB 2339 by Wayne Smith

Effective
6/10/15

- Allows sporting-oriented Public Entertainment Facilities with a single license/permit holder to let patrons walk between licensed/permitted areas of facility with an alcoholic beverage
 - Licensee/permittee required to have an approved agreement in place per Section 108.79 of AB Code

Implementation:

- Create forms for PEF distinction and walkabout privilege and upload to website
- IT Coding
- Consider new rule
- Update Licensing Procedures
- Update Industry Guide
- Update Licensing Application

Amends AB Code: 108.82

- LICENSING -

SB 540 by Eltife

Effective
6/1/15

- Clarifies that all late hours licenses must meet same qualifications:
 - Population OR
 - The city/county has adopted an ordinance/order approving late hours

Amends AB Code: 70.01

- LICENSING -

SB 700 by Eltife

Effective
9/1/15

- Allows electronic signature to be submitted in lieu of notarized manual signature
- Covers original and renewal licenses and permits as well as label certificates and any related documentation required with those applications

Implementation:

- Update Industry Guide
- Update Interview Guidelines

Amends AB Code: 5.55

Adds AB Code: 5.321

- LOCAL OPTION/LOCAL CONTROL -

HB 2035 by Raymond

Effective
9/1/15

- Allows cities and counties near border to regulate location of establishments that derive 50% or more in gross revenue from on-premise alcohol sales
 - Cities and counties statewide can currently do the same for sexually oriented businesses and establishments that derive 75% or more in gross revenue from on-premise alcohol sales

Amends AB Code: 109.57(d)

- LOCAL OPTION/LOCAL CONTROL -

HB 2296 by Wayne Smith

Effective
9/1/15

- Removes role of TABC in approving a local government's prohibition of open containers or public consumption of alcohol in a central business district (CBD)
 - Prohibition imposed by city charter or county ordinance

Implementation:

- Update website

Amends AB Code: 109.35

- LOCAL OPTION/LOCAL CONTROL -

HB 2735 by Capriglione

Effective
6/15/15

- Allows a city that is wet for beer & wine off-premise since 1/1/85 to adopt an ordinance authorizing the same for an annexed area if:
 - Annexed area is not more than 1% of total area covered by city,
 - All of land in annexed area is zoned for commercial use only, and
 - Annexed area is not adjacent to residential, church or school property

Implementation:

- Update Guide for County Clerks

Amends AB Code: 251.72 Adds AB Code: 251.725

HB 2735 by Capriglione

Election Code, Sec. 501.035(b):

- (1) "The legal sale of beer for off-premise consumption only."
- (2) "The legal sale of beer."
- (3) "The legal sale of beer and wine for off-premise consumption only."
- (4) "The legal sale of beer and wine."
- (5) "The legal sale of all alcoholic beverages for off-premise consumption only."
- (6) "The legal sale of all alcoholic beverages except mixed beverages."
- (7) "The legal sale of all alcoholic beverages including mixed beverages."
- (8) "The legal sale of mixed beverages."
- (9) "The legal sale of mixed beverages in restaurants by food and beverage certificate holders only."
- (10) "The legal sale of wine on the premises of a holder of a winery permit."

- LOCAL OPTION/LOCAL CONTROL -

SB 680 by Nelson

Effective
9/1/15

- Asserts that an area--annexed to a city to which certain conditions apply--assumes the wet/dry status of that city
- Asserts that an area contiguous to and owned by a city--to which certain conditions apply--assumes the wet/dry status of that city

Implementation:

- Update Guide for County Clerks

Amends AB Code: 251.72

Adds AB Code: 251.725

- MARKETING PRACTICES/LABELING -

HB 1039 by Geren

Effective
6/19/15

- Removes restriction that requires package stores to sell containers less than six ounces (miniatures) in multiples to consumers

Implementation:

- Update Industry Guide
- Update website
- Update Interview Guidelines

Amends AB Code: 101.46(a)

- MARKETING PRACTICES/LABELING -

HB 1348 by Geren

Effective
9/1/15

- Adds "only" to statute to clarify and codify current practice of TABC approving a label with federal COLA strictly for quality, identity and purity of product
 - applicable to distilled spirits, most wine, and out-of-state malt liquor
- Codifies general consensus that TABC has the authority to investigate whether a product or its production is in violation of other provisions of the Alcoholic Beverage Code

Implementation:

- Update Industry Guide

Amends AB Code: 101.671(b)

- MARKETING PRACTICES/LABELING -

HB 1905 by Springer *(as applicable to TABC)*

Effective
9/1/15

- Exempts passenger airlines and trains from paying an excise tax and service fee on the alcoholic beverages they serve to consumers when traveling in Texas

Implementation:

- Update Audit Procedures Manual and Excise Tax Manual
- Update Industry Guide
- Repeal Rules 16 TAC §41.26 and §41.47
- IT Coding changes

Amends AB Code: 34.04 and 48.04

- MARKETING PRACTICES/LABELING -

HB 2022 by Wayne Smith

**Effective
5/28/15**

- Increases the maximum capacity of a wine container sold to a retailer from 8 gallons to 15.5 gallons

Implementation:

- Update Interview Guidelines
- Update Industry Guide

Amends AB Code: 101.45

- MARKETING PRACTICES/LABELING -

SB 858 by Eltife

Effective
6/16/15

- Adds brewpubs to list of licensees/permittees that can obtain label approval for malt beverages
 - Aligns AB Code with legislative intent of 83rd Legislature and TABC Administrative Rules as of August 2014

Implementation:

- Update Industry Guide

Amends AB Code: 101.67(b)

- MARKETING PRACTICES/LABELING -

SB 881 by Nelson

Effective
9/1/15

- Funds priorities for research and development of Texas wine at the lesser of \$1 million or revenue derived from both sales and excise taxes on wine sold in Texas for a total of up to \$2 million

Implementation:

- Change Monthly Tax Reports submitted by permit holders
- Provide notification and explanation of new reports
- Update Interview Guidelines
- Update website

Amends AB Code: 205.03(b)-(e), (j), (n), (p)

Adds AB Code: 205.03(n-1)

Repeals AB Code: 205.03(a), (f)-(i), (k)-(m), (o)

- ENFORCEMENT -

HB 824 by Kuempel

Effective
6/19/15

- Allows customer of a package store a reasonable amount of time after closing time to make a purchase if customer entered before closing time
- Allows permittee to sell the alcoholic beverage to the customer even after closing

Implementation:

- Update Interview Guidelines
- Update Industry Guide

Adds AB Code: 22.17

- ENFORCEMENT -

HB 909 by Phillips

Effective
9/1/15

- Allows minor students enrolled in certain courses to taste an alcoholic beverage and spit it out
 - Minor is at least 18 years old
 - Minor is a student at institution of higher education or career school and in a program for culinary arts, viticulture, etc.
 - Service and tasting is sponsored by a faculty or staff member who is at least 21 years old

Amends AB Code: 106.05(b) and 106.06(b)
Adds AB Code: 106.16

- ENFORCEMENT -

HB 2533 by Goldman

Effective
9/1/15

- Repeals section on *Offensive Noise on Premises* in Alcoholic Beverage Code that is no longer used

Repeals AB Code: 101.62

- ENFORCEMENT -

HB 3982 by Romero

Effective
9/1/15

- Defines drink solicitation as a presumption of alcohol being sold by licensee/permittee in excess of licensee/permittee's customary price
- Adds offense of drink solicitation as an exception to disallow a licensee/permittee to pay a civil penalty in lieu of a suspension or cancellation

Implementation:

- Update *Suspensions* Rule 16 TAC §37.61 to add drink solicitation

Amends AB Code: 11.64(a) and 104.01

Adds AB Code: 104.01(b)

- ENFORCEMENT -

SB 367 by Garcia

Effective
9/1/15

- Prohibits licensees from allowing another person to use or display their license
 - Similar to prohibition in place for permit holders
- Creates an offense if:
 - A licensee/permittee knowingly allows another person to display or use their license/permit
 - The person display or uses a license/permit issued to another person

- ENFORCEMENT -

SB 367 by Garcia (*continued*)

Effective
9/1/15

- Directs TABC to cancel a license/permit if the holder was convicted of subterfuge
- Directs appropriate authority not to issue a license/permit to a person convicted of subterfuge for 5 years

Implementation:

- Update Interview Guidelines
- Update Industry Guide
- New IT code for subterfuge owner (aka non-license/permit holder)

Amends AB Code: 11.05 Adds AB Code: 11.46(d),
11.61(d-1), 61.16, 61.42, 61.713, 101.76

- ENFORCEMENT -

SB 808 by Eltife

Effective
9/1/15

- Defines "wet" based on specific citations for local option elections
- Clarifies privileges of certain holders of a distiller's and rectifier's permit based on authority granted through local option elections and the date of those elections

Amends AB Code: 14.01(a), 14.04(a), and 14.05(a) & (b)

SB 808 by Eltife

Election Code, Sec. 501.035(b):

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- ENFORCEMENT -

SB 1651 by Eltife

Effective
5/19/15

- Allows a person under 18 to work as a cashier for transactions involving the sale of alcohol if a business:
 - Is licensed/permitted for on-premise consumption,
 - Derives less than 50% of gross receipts from sale or service of alcohol AND
 - Serves alcohol by a person age 18 or older

Implementation:

- Update Interview Guidelines
- Update Industry Guide

Amends AB Code: 106.09

- ENFORCEMENT -

SB 2019 by Uresti

Effective
6/19/15

- Adds a representative from TABC to Texas Violent Gang Task Force
 - Dexter K. Jones, Assistant Chief of Field Operations

Implementation:

- Executive Director to designate a representative

- EMPLOYEES -

SB 1228 by Seliger

Effective
9/1/15

- Authorizes children of TABC employees to be employed by holders of a license/permit
 - Requires agency to set policy requiring employees to disclose information regarding a child's employment with a license/permit holder

Implementation:

- Establish policy for disclosure of child's employment

Amends AB Code: 5.05

- AGENCY OPERATIONS -

HB 1771 by Raney

Effective
9/1/15

- Allows an employee to donate accrued sick leave to another employee at the same agency who has exhausted their sick leave

Implementation:

- Update HR policy

- AGENCY OPERATIONS -

HB 763 by Susan King

Effective
6/9/15

- Limits who can file a Petition for Rulemaking to residents, businesses, organizations or governmental subdivision located in Texas

Implementation:

- Amend Rule 16 TAC § 31.3 to reflect residency requirements to file a petition for rulemaking

- AGENCY OPERATIONS -

HB 855 by Sanford

Effective
9/1/15

- Requires agency websites to be compatible with
 - three most commonly used browsers and
 - wireless devices such as cell phones and tablets

- AGENCY OPERATIONS -

SB 20 by Nelson

(as applicable to TABC)

**Effective
9/1/15**

- Makes changes to state agency contracting requirements and policies
 - TABC will implement some changes now, but DIR and CPA will provide guidance to all state agencies for many of the provisions of the bill

Implementation:

- Establish/Amend contracting rules
- Update Ethics Policy regarding contracting, BSD processes on contract management, and the records retention policy
- Create a purchasing policy and a Contract Management Handbook
- Post certain contracts online

- AGENCY OPERATIONS -

SB 273 by Campbell

Effective
9/1/15

- Prohibits a state agency from posting a notice forbidding a CHL holder from carrying a handgun on premises owned or leased by the agency UNLESS the CHL holder was prohibited from carrying a weapon on the premises under Sections 46.03 or 46.035, Penal Code
- Narrows the offense for unlawful carrying by CHL holder to a room or rooms where an agency is holding an Open Meeting

- AGENCY OPERATIONS -

SB 805 by Campbell

Effective
9/1/15

- Military Veterans' Full Employment Act
- Grants employment preference to veterans, veterans with disabilities, surviving spouses who have not remarried, and orphans of veterans killed while on active duty

Implementation:

- Designate a veteran's liaison and post contact information on website
- Update HR Policy
- Add screening questions on employment application
- Update employment information on website

- AGENCY OPERATIONS -

SB 880 by Nelson

Effective
9/1/15

- Creates the Wine Industry Development Advisory Committee to—among other duties--assist and advise the Agriculture Commissioner in determining the best, most productive, and most efficient expenditures of the wine industry development fund
 - TABC is part of the committee as a non-voting member
 - Commissioner of Agriculture appoints members

Amends AB Code: 205.03(p)

Questions?

