

TABC TODAY



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YARBROUGH TO LEAD NCSLA

TABC Assistant Administrator Randy Yarbrough has become the fourth member of the TABC to serve as President of the National Conference of State Liquor Administrators (NCSLA). The NCSLA is a national association of state agency leaders responsible for administration of alcoholic beverage laws in their jurisdictions. Formed in 1935, the association's membership consists of all license states, control states Iowa, Mississippi, Ohio, Pennsylvania and Virginia, the City of Baltimore, Maryland, Washington, D.C. and the territories of Puerto Rico and Guam.

The purpose of the association is to promote the

enactment of the most effective and equitable types of state alcoholic beverage laws and to provide a format for agency leaders around the country to both problem solve and share ideas about successful programs and laws. Meetings of the association also provide an opportunity for agency leaders and staff to engage in public policy discussions with industry leaders around the country and the world.

Yarbrough stated that his goal for the year is to provide better information between states through the creation of an association World Wide Web page to provide



Randy Yarbrough and his wife, Diana at the ceremony where he was sworn in as the new President of NCSLA.

members, industry and agencies with direct contacts within each state and to afford an easier method to share information between states. As the representative of the public in regulating the alcoholic beverage industry, this will also allow the member agencies to be more

responsive to public inquiries.

Previous TABC Presidents of the association have been Bert Ford in 1940-1941, Coke Stevenson, Jr. in 1954-1955 and W. S. Sherman McBeath in 1985-1986. Yarbrough has been employed by the TABC since February 1976 and has served as Assistant Administrator with the agency since January of 1987.

Rules, Rules, Rules...

During the last legislative session the Appropriations Act was amended to require all state agencies to engage in a comprehensive review of all rules. The amendment gives two commands. First, all rules passed after September 1, 1998 automatically expire four years after adoption unless the authorizing agency specifically readopts the rule. Second, all rules in existence on September 1, 1998 must be revised by the adopting agency before August 31,

2001 in accordance with a schedule published by the agency.

The purpose of the amendment is to insure that agency rules do not become irrelevant, redundant or unnecessarily cumbersome. In the course of their review agencies must determine if the rule in question is still necessary or should be amended in some way.

The rules to be considered over a certain period of time will be

published in the *Texas Register* to invite public comment. Should the agency propose to repeal or amend a rule, that proposal is to be separately published in the *Texas Register*.

The TABC begins this process in September. Between September and December the agency will receive public comment, and the staff will review rules contained in Chapters 31 and 33 of the agency's rule book.

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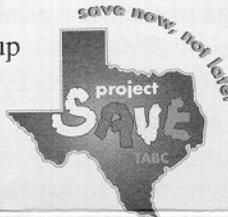
Project SAVE Targets Retailers

The new Project SAVE for Retailers has been completed and will be available for statewide use in late September. The program is divided into various topics and the TABC recommends that retailers take certain topics to begin the program which include: TABC programs, inspections, minors, false identification, intoxicated persons, hours of sale, authorized activities and administrative/criminal cases.

Any topic may be scheduled individually or in combination with others. Other sections which may be requested at the retailer's discretion include: employee age requirements, crime and safety tips, investigations, marketing practices, vice offenses, private clubs, renewals, temporaries, caterers and transportation. Your local Project SAVE agent is available to answer questions and help retailers schedule convenient times for instruction.

The program uses several videos including "TABC: Who We Are, What We Do," "Intoxicated Reaction Test" (a Century Council tape on intoxicated young people and how it affects reaction time) and "Minor Stings" (a collection of minor stings separated by on and off premise). The program also uses Power Point slides for activities like "Guess Who's a Minor" and to hammer home points about minors, fake ID's and intoxicated persons. One series of slides shows how to examine a real Texas driver's license to determine if a customer is under 21. Handouts and brochures are also provided to participants to encourage further study.

Pilot tests of the new programs are being conducted in Dallas, Austin, San Antonio and Bryan. Retailers may sign up for the program by contacting their local TABC office.



After 25 years of service with the TABC, Compliance Department Director Tom Byrd has retired. Tom began his career with the agency in 1972 as an auditor in Dallas. During his career, Tom served as an auditor in Fort Worth and a supervisor in McAllen. In 1988, he was named supervisor of Audit Training. Four years later he was named director of Auditing and Tax Reporting. At last report, Tom was operating an accounting/tax practice business in his hometown of Marlin, Texas and enjoying his busy retirement.

Administrator's Corner



My favorite budget report was given by a treasurer of a small non-profit association that I was a member of years ago. At the appointed time the treasurer stood and said, "We took some in, we spent some and we have some left."

The above budget report isn't detailed enough for government work.

Like all state agencies, we operate on a biennium basis and are currently preparing our budget request for the years of 2000-2001. The document is known as a Legislative Appropriations Request (LAR). This request is scrutinized by the Legislative Budget Board, the Governor's Office of Budget & Planning, the House Appropriations Committee and the Senate Finance

Committee.

The Texas Alcoholic Beverage Commission is one of several agencies that is required to generate its own cost of operations. In other words, we are required to raise the amount of money that we spend. This is done through the license and permits fees, as well as, the surcharge levied against the industry and taxes levied against people who are bringing alcohol in from Mexico.

It is a stretch when a speeder says to a traffic cop, "I pay your salary, why aren't you out there catching real crooks?" In reality most peace officers' salaries are paid out of General Revenue type funds and it is difficult for any one citizen to claim ownership of any particular peace officer.

So when a licensee or permittee says to a TABC agent or a compliance officer or Ozie down in the mail room, "I pay your salary" it reflects a pretty direct relationship. I

still wouldn't recommend that you make this comment to TABC employees or the traffic officers. It comes across as a little arrogant and doesn't lay the groundwork for good business relationships.

Back to the LAR, Denise Hudson and her folks in our Fiscal Services Department have done another excellent job of preparing our request and we are looking forward to our budget hearings.

This time of year also signals the beginning of a new school year. Unfortunately, for some Texas students it is a time to mix alcohol with their school-related parties. I'd like to enlist your help in working with us to prevent illegal underage drinking. One way of keeping kids away from alcohol is to keep alcohol away from kids. In the words of The Century Council:

**NO I.D.,
NO SALE,
NO WAY!**
Doyle Bailey

Did You Know?

Several changes were made in the last legislative session to laws involving the possession and manufacturing of fake driver's licenses and other types of identification. The following sections were altered by enlarging the definition of "**false identification**" to cover identification made by another agency of this state, another state or the United States. Senate Bill 89, by Senator Royce West, revised these sections of the Transportation Code and Texas Penal Code:

◆ **Section 521.453** of the Transportation Code makes it a class C misdemeanor for a person under the age of 21 to possess, with the intent to represent that the person is 21 years of age or older, a document that is deceptively similar to a driver's license or personal identification certificate, now including out-of-state identification and military ID's.

◆ **Section 521.456** of the Transportation Code makes it a class

C misdemeanor for a person to possess with the intent to use, circulate or pass a forged or counterfeit instrument that is not made by the appropriate authority, now including out-of-state identification and military ID's.

◆ **Section 521.456** of the Transportation Code makes it a class A misdemeanor to possess with intent to sell, distribute, or deliver a forged or counterfeit instrument that is not made or distributed by an authority authorized to do so under a state, federal, or Canadian law.

◆ **Senate Bill 89** also increased the penalty to a third degree felony for the offense of manufacturing or producing with the intent to sell, distribute, or deliver a forged or counterfeit instrument that the person knows is not made by the appropriate authority, now including out-of-state and military ID's.

◆ **Section 37.10** of the Texas Penal Code states that it is an offense to tamper with a governmental record. An offense under this section is a felony of the third degree if the governmental record was a license, certificate, permit, seal, or similar document issued by the

government, by another state, or by the United States.

NOTE: As in the past, a retailer may accept any form of identification as proof of age, but they still lose any protection offered under 106.03(b) of the Alcoholic Beverage Code, and run the risk of criminal and administrative action being taken, if they sell to a minor based on another form of identification. This section of the Code states: "A person who sells a minor an alcoholic beverage does not commit an offense if the minor falsely represents himself to be 21 years old or older by displaying an apparently valid Texas driver's license or an identification card issued by the Texas Department of Public Safety, containing a physical description consistent with this appearance for the purpose of inducing the person to sell him an alcoholic beverage." **Remember, acceptance of another form of identification other than a Texas driver's license or identification card is not a violation.** A violation only occurs if a sale is made to an underage customer.

They're Coming to San Antonio!

The annual meeting of the National Liquor Law Enforcement Association (NLLEA) will be hosted by the TABC in San Antonio on September 19-23. The theme for this year's gathering is "*The San Antonio Summit on Liquor Law Enforcement: Yesterday's Lessons, Tomorrow's Challenges.*"

The conference will draw participants from throughout the country and feature work sessions on such topics as: independent surveillance and investigative services, ethics, arrested emotional development and tobacco issues. Numerous speakers from various organizations will address the need to develop effective partnerships to target illegal underage drinking in the United States. "The conference gives us an excellent opportunity to showcase some of our initiatives as well as develop critical partnerships with other organizations who are dedicated to reducing alcohol use by young people," says Enforcement Chief Greg Hamilton.



Tracking the Y2K Bug.....



The impact of the Year 2000 computer problem may cause a ripple throughout the economy and society. If the problem is not fixed, computer systems that perform date sensitive calculations will malfunction. When the date becomes January 1, 2000, computers programmed to recognize two-digit years will interpret 01/01/00 as January, 1900. As a result, they will either shut down or produce erroneous information.

What does this all mean to the alcoholic beverage industry and the TABC?

First of all, the agency's Information Resources Department (IRD) has successfully fixed the Y2K problem with all of the mission critical mainframe application systems. The Department of Information Resources (DIR) has designated TABC as "on target"

with respect to year 2000 changes. Additionally, the commission is completing a system wide inventory of embedded architecture to identify and deal with any problems that may not be directly related to mainframe or desktop computer systems and their software.

Secondly, since May, 1997, all of the agency's licensing and related database systems have been modified to correctly read a date beyond 12/31/99, including expiration dates of licenses, permits and certificates. The goal is to make sure that starting January 1, 2000 all new and renewal license applications which have an expiration date in the year 2000 will be processed without incident. IRD staff plan to update the agency's web site with Y2K awareness updates to assist all concerned groups in identifying those areas where they

may be impacted, not only at work, but also in their daily lives. For more information on Year 2000 concerns, contact IRD Director Jay Webster at 512/206-3452 or at j.webster@tabc.state.tx.us. For more information on the Year 2000 awareness updates, check out these web links:

Texas Department of Information Resources (DIR):

<http://www.dir.state.tx.us/y2k/>

Texas Guidebook 2000:

<http://www.dir.state.tx.us/y2k/resources/guide2000.htm>

Information Technology Association of America (ITAA):

<http://www.ita.org/year2000.htm>

Year 2000 Bookmarks (George Girod):

<http://pw1.netcom.com/~ggirod/bookmark.html>

The Year 2000 Information Center (Peter de Jager):

<http://www.year2000.com/>

Summit Zeroes in on Underage Drinking

The Texas Alcoholic Beverage Commission will be participating in the first Texas Standing Tall Underage Drinking Policy Summit, which will be co-sponsored by the Texas Department of Transportation and the Texas Medical Association on September 17th and 18th in Austin.

Attendance at the summit will be limited to some 150 invited key policy-makers, adult and youth civic leaders and Texans Standing Tall Coalition members who will focus on policies to change the current environment that encourages young people to drink.

International and national practitioners and researchers will address issues of statewide concern. The staff of the Robert Wood Johnson Foundation-Alcohol Policy Office of the American Medical Association will also be participating.

Immediately following the summit, the TST Annual Meeting will convene to prioritize two specific policy issues to bring to the public forum: to establish the statewide coalition agenda and to introduce the Regional Site Steering Committees.



(L.-R.) TABC Administrator Doyne Bailey, Commissioner Martha Dickie, Chairman Allan Shivers, Jr., Hays County Sheriff Don Montague and Gordon Johnson of the Sheriff's Association of Texas were on hand for the presentation of the 4th Annual Bert Ford for Sheriff Commendation. This year's award went to Sheriff Montague for his ongoing support of the agency's law enforcement initiatives targeting illegal underage drinking in his area. Sheriff Montague has been instrumental in working with local agents to enhance educational efforts as well as involving parents in his outreach. Named in honor of former TABC Administrator Bert Ford, the award recognizes the efforts of sheriffs across the state who exemplify a "spirit of cooperation" and partnership that is critical to the efforts of the agency.



Conroe Sergeant Harlan T. Hudgins reports that this ad was published in the Illustrated Paperboy by a group of responsible business people in San Jacinto County who have been supportive of the agency's initiatives to target illegal underage drinking.

WARNING TO ALL MINORS!

Attempting to purchase (as well as purchasing or consuming) alcohol, if you are under 21 is a violation of Texas Law, punishable by a substantial fine, possible suspension of your driver's license, community service and alcohol education classes.

The following retailers want you to stay drug and alcohol free. If you attempt to purchase alcohol at these places we will contact the appropriate law enforcement agency!

Graduate with pride, not problems - participate in your school's Project Graduation and Save Lives.

**Clark's Country Liquors
Lovett's Grocery
TD's
B&K Liquor**

**ENDORSED BY:
The Dam Liquor Store
3278 Grocery
& Marina**

**Wolfcreek Marina
Frank's Liquor Store
Indian Creek Grocery
& Marina**

Commission Rules On Marketing Practices

The commissioners heard further comment from industry members about marketing practices rules 45.109, 45.110, 45.113 and 45.117 at their July meeting. The commissioners did not vote or issue any instructions to the staff with regard to the comments.

At their August meeting the commissioners will be asked to vote on two amendments to the marketing practices rules previously proposed by the agency staff and published in the *Texas Register*. The first amendment to rule 45.109(c) would, if adopted, allow industry members to move competitor's products that are arranged in floor or end-cap displays in retail stores.

The second proposal seeks to amend rule 45.117(d)(2). If adopted, this amendment would allow manufacturers and wholesalers in the liquor industry to provide meeting rooms to retailers for purposes of product promotions. This would allow members of the liquor industry

to offer the same services to customers that are allowed within the beer industry by rule 45.113(e)(2).

In addition the staff will ask the commissioners for permission to publish proposed amendments to rules 45.110(c)(4) and 45.113(b). If approved, the proposed amendments would be published in the *Texas Register* in order to invite public comment. The proposed amendment to rule 45.110(c)(4) is designed to restrict the amount of food, beverages and entertainment that can be provided by members of the upper tiers to members of the retail tier without violating the Code's proscriptions against inducement. The proposed amendment would mandate that only food and beverages consumed in the presence of the provider (up to a limit of \$300.00 per occasion) could be given.

The proposed amendment to 45.113(b) would forbid manufacturers and distributors of beer from giving novelty items to retailers. Should this amendment be adopted by the commissioners at a future meeting, beer

manufacturers and distributors would be allowed to give novelty items to consumers, but would be required to sell such items to retailers. Novelty items are defined as things that have a value of \$1.00 per unit wholesale price or less.

Rules...

(continued from front page)

In future months the agency will review its rules according to the following plan:

- January 1999 - May 1999
Chapters 35 & 36
- June 1999 - August 1999
Chapters 37 & 39
- September 1999 - December 1999
Chapters 41 & 43
- January 2000 - August 2000
Chapter 45
- September 2000 - December 2000
Chapters 47, 49 & 50

A current version of the rules can be found on the agency's website at www.tabc.state.tx.us.

You Asked...questions about alcoholic beverage regulations

Why doesn't the TABC provide package stores with signs saying state law prohibits persons under the age of 21 from being on the premises? Minors who are 18 or older don't believe us when we tell them.

Thanks for the idea. Section 109.53 of the Code states that "no minor, unless accompanied by his/her parent, guardian, adult husband/wife, or other adult person into whose custody he/she has been committed for the time by some court, shall knowingly be allowed on the premises of the holder of a package store permit". This prohibition does not apply to a person who is lawfully employed by the holder. By the way, staff is already working on a sign that will be made available through our field offices.

Can you develop a brochure on valid Texas driver's licenses, showing us what to look for on the ID?

You are a prime candidate for our newly developed Project SAVE program for retailers! This training offers some practical and helpful tips to help you and your employees identify false ID cards. You should also note that the Texas DPS has a poster that depicts

the various changes made on Texas driver's licenses since 1995 and this could be useful to you. In the meantime, we certainly will consider your request along with our other public information activities.

What do you do when someone asks you to not sell to someone because they are an alcoholic or they are taking medication? What is the package store's legal responsibility in this area?

Providing, selling or serving alcoholic beverages to an obviously intoxicated person is a violation of our Code as is knowingly serving an "habitual drunkard" or "insane person." However, because of the personal nature of conditions such as alcoholism or other medical illnesses requiring medication, it is often difficult for someone to know whether a customer who does not act in an intoxicated manner should be denied the sale, service or provision of an alcoholic beverage for other reasons. With respect to the legal responsibility, you should consult with your attorney for a more detailed explanation of the applicable legal issues that might arise from situations of this nature.

Allan Shivers, Jr., Chairman
Martha Dickie, Commissioner
John T. Steen, Jr., Commissioner
Doyle Bailey, Administrator

The TABC Today is an external publication of the Texas Alcoholic Beverage Commission. We welcome comments, suggestions and/or questions from our readers. To report a possible violation of the Alcoholic Beverage Code, call toll-free 1-888-THE-TABC (Voice/TDD).

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