

The Texas Alcoholic Beverage Commission (TABC) adopts on an emergency basis and amendment to rule §50.28(c) in response to COVID-19. As authorized by Government Code §2001.034, the Commission may adopt an emergency rule without prior notice or hearing upon finding that an imminent peril to the public health, safety, or welfare requires adoption on fewer than 30 days' notice. Emergency rules adopted under Government Code §2001.034 may be effective for not longer than 120 days and may be renewed for not longer than 60 days.

BACKGROUND AND PURPOSE

The purpose of the emergency adoption is to support the Governor's March 13, 2020, proclamation certifying that the COVID-19 virus poses an imminent threat of disaster in the state and declaring a state of disaster for all counties in Texas. In this proclamation, the Governor authorized the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster and directed that government entities and businesses would continue providing essential services. The Commission accordingly finds that an imminent peril to the public health, safety, and welfare of the state requires immediate adoption of this Emergency Rule extending the expiration dates for certain seller server certificates.

To support Texans who rely upon seller server certification for their livelihood and the businesses that rely upon those employees to reopen and reinvigorate a large sector of the state's economy, and to thus protect the economic welfare of the state, the Commission is adopting an emergency rule to extend the expiration dates for seller server certificates that would otherwise expire during the period of economic shutdown caused by COVID-19. Seller server certificates with expiration dates from March 13, 2020 through May 13, 2020 shall not expire and shall remain valid for all purposes for 90 days following the date this rule is filed with the Texas Register.

STATUTORY AUTHORITY

The emergency rule is adopted under Government Code §2001.034 and Alcoholic Beverage Code §5.31. Government Code §2001.034 authorizes the adoption of emergency rules without prior notice and hearing if an agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule on fewer than 30 days' notice. Alcoholic Beverage Code §5.31 authorizes the Alcoholic Beverage Commission to prescribe and publish rules necessary to carry out the provisions of the Code.

<rule>

§50.28. Verification and Expiration of Certificate.

(a) The commission can only issue an affidavit verifying that a seller server certificate has been issued to a student if:

(1) the request for verification includes the student's name, date of birth, and a commission-approved personal identification number; or

(2) the request for verification includes the student's name, date of birth, and the certificate number of the certificate that is the subject of the verification request, if a commission-approved personal identification number is not available.

(b) A certificate issued under this chapter will expire on the second anniversary of the date it is issued.

(c) Notwithstanding subsection (b), a certificate with an expiration date falling between March 13, 2020 and May 13, 2020, inclusive, shall not expire and shall remain valid for all purposes for 90 days following the date this emergency rule is filed with the Texas Register. This provision expires by its own terms after 90 days unless it is extended pursuant to Government Code Section 2001.034(c).

The agency certifies that legal counsel has reviewed the emergency adoption and found it to be within the state agency's legal authority to adopt. Filed with the Office of the Secretary of State on May 20, 2020.