



TEXAS ALCOHOLIC  
BEVERAGE COMMISSION

*Texans Helping Businesses & Protecting Communities*

# New Laws from the 88th Texas Legislature

---

**New Laws Effective Sept. 1, 2023**

# A word from the agency...



**TABC developed this information to provide you with a basic summary of new laws adopted by the 88th Texas Legislature that impact the alcoholic beverage industry.**

**This is only meant to be a summary of new laws and is not meant to be an exhaustive statement of the law or to be construed as a legal authority.**

**For complete legal requirements, please access the following:**

- [Texas Legislature Online](#),
- [Texas Alcoholic Beverage Code](#),
- [TABC Administrative Rules](#), and
- [TABC Marketing Practices Advisories](#)



# **New Laws Impacting the Production Tier**

# Contract Distilling

## SB 60 | Effective Sept. 1, 2023



- **Agreement to Use a Texas Distillery Premises:** Distiller's and Rectifier's Permit holders and Qualifying Nonresident Seller's Permit holders may contract with Distiller's and Rectifier's Permit holders to engage in certain activities on the premises of a Texas distillery
- **Authorized Activities:** manufacture distilled spirits; rectify, purify, or refine liquors; mix liquors; bottle, label, and package finished products; and other activities
- **For an Agreement to be Valid:**
  - It must describe the nature, duration, and extent of the activities authorized
  - It is subject to approval by TABC
- **Shared Premises:** distillers that engage in any shared use of a premises must ensure a strict separation between the businesses and operations of each permit holder. TABC will develop Administrative Rules on this as required by law
- **Limited Use of Spirits Produced:** the distiller on whose premises the authorized activity occurs may NOT consider or treat the resulting products as their own and may NOT sell those products on their premises

**TABC will adopt rules that further describe how to comply with this new law. Until then, TABC asks distillers to maintain all proper records of these activities and to use their best judgement in complying with the law.**

*TX Alc. Bev. Code Sec. 14.10 (SB 60, 88R)*

# Distiller Samples at Temporary Events

## SB 1375 | Effective Sept. 1, 2023



- **Authority:** distilleries may conduct **free samples or tastings** (no sales) of their products for the public at certain events away from the distiller’s permitted premises under certain conditions...
- **Qualifying Events**
  - It must be a civic or distilled spirits festival, farmers' market, celebration, or similar event
  - The term “celebration” covers a broad range of events, regardless of whether the event is public or private
- **Source of Alcohol:** distiller’s own inventory
  - The distilled spirits must have product registration with TABC
  - Excise taxes must be paid
- **Sample Limitations**
  - Samples may not be sold to consumers
  - Samples may only be poured and served by the distiller
  - A sample may not exceed 0.5 ounces
  - Persons that receive the samples may not remove them from the event premises

**TABC will adopt rules on requiring distillers to submit a notification to TABC prior to participating in one of these events. Until TABC adopts those rules, TABC asks distillers to maintain all records of participation in these events and to use their best judgment in complying with the requirements of the law.**

*TX Alc. Bev. Code Sec. 14.01, 14.09 (SB 1375, 88R)*

# Selling Distilled Spirits to Consumers

## SB 2284 | Effective Sept. 1, 2023



### Distiller Sales for Off-Premise Consumption

- Distillers that are eligible to sell their distilled spirits to consumers for consumption off the distillery's premises **may sell up to FOUR** (rather than two) **750 milliliter bottles of distilled spirits** or the equivalent to the same consumer in a 30-day period

### Distiller Sales for On- or Off-Premise Consumption

- Distillers must keep records of each of their on- and off-premise sales to consumers

*TX Alc. Bev. Code Sec. 14.05 (SB 2284, 88R)*



# **New Laws Impacting the Wholesale Tier**

# Distributor Samples for Retailers

## HB 3712 | Effective Sept. 1, 2023



- **Authority:** distributor's license holders may provide malt beverages samples to retailers
- **Eligible Retailers:** retailers that are authorized to sell malt beverages who have NOT previously purchased the product
- **Source of Alcohol for Samples:** from the distributor's own inventory (must have product registration, excise taxes must be paid)
- **Conducting the Sampling Event**
  - Distributor or their agent must be present
  - Distributor may open and pour samples for retail staff who are 21 or older and not intoxicated
  - Distributor may make a presentation and answer questions
  - Distributor may provide no more than 72 oz to a retailer for sample purposes

*TX Alc. Bev. Code Sec. 102.02 (HB 3712, 88R)*





# **New Laws Impacting the Retail Tier**

# Opioid Overdose Training

## SB 998 | Effective Sept. 1, 2023



- **Mixed Beverage and Private Club Permit holders** – and the employees they require to complete seller training certification – must complete annual opioid overdose training
- **Training requirement does NOT apply to permit holders that are a “restaurant”**
  - Restaurant: a business that operates its own permanent food service facility with commercial cooking equipment on its premises and prepares and offers to sell multiple entrees for consumption on or off the premises

**TABC will develop and publish the training material and administrative rules necessary for businesses and their employees to comply with this new law. TABC will provide additional information when the training material and rules become available.**

*TX Alc. Bev. Code Sec. 1.04, 28.20, 32.26 (SB 998, 88R)*

# Private Vintage Distilled Spirit Collections

## SB 1322 | Effective Sept. 1, 2023



- **Vintage Distilled Spirits**
  - Must be sold by a private seller located in Texas
  - Must be in the original container sealed by the manufacturer, and
  - Must NOT be available for purchase from a wholesaler in the last 5 years (not in the market)
- **Package Store Permit (P) holders** may buy up to 24 containers of vintage distilled spirits per store during any 12-month period from a vintage distilled spirits seller who holds no TABC license or permit. The permittee may buy from multiple sellers. The package store must maintain a record of each purchase until 2 years after the date it sells the product to the ultimate consumer or the holder of a passenger transportation permit.
- **Local Distributor Permit holders** may buy up to 24 containers of vintage distilled spirits per store during any 12-month period from a vintage distilled spirits seller who holds no TABC license or permit. The permittee may buy from multiple sellers. Local Distributors **may sell to a Mixed Beverage Permit (MB) holder** up to 6 containers of vintage distilled spirits during a 12-month period. Must maintain a record of each purchase for 2 years after it sells the product.
- **Excise Taxes:** vintage distilled spirits sales are exempt from excise taxes

*TX Alc. Bev. Code Sec. 1.04, 22.01, 22.19, 23.01, 23.07, 28.07, 103.10, 201.08 (SB 1322, 88R)*

# Private Wine Collections

## SB 1932 | Effective Sept. 1, 2023



- **Authority:** Mixed Beverage, Wine and Malt Beverage Retailer, and Private Club permit holders – who also hold a Food and Beverage Certificate – may buy wine from a private wine collection seller
  - **Private Wine Collection Seller:**
    - Must not hold any TABC license or permit, and
    - Must not be engaged in the business of selling alcoholic beverages (*applies to sellers in and outside of Texas*)
  - **Eligible Wines**
    - Must have been manufactured 20 years or more before the sale date, and
    - Must be in an original container sealed by the manufacturer
  - **Excise Taxes:** wines sold by a private wine collection seller to a restaurant are exempt from excise taxes
- **Restaurant Sales to Consumers:** the restaurant may sell the above-mentioned wine to an ultimate consumer for on-premises consumption and must maintain a record of each purchase until 2 years after the date it sells the wine to the ultimate consumer

TX Alc. Bev. Code Chapter 111 (SB 1932, 88R)



# **Other New Laws Impacting License and Permit Holders**

# Updates to Population References

## HB 4559 | Effective Sept. 1, 2023



- The following population descriptions in the Texas Alcoholic Beverage Code have been updated to reflect new data from the 2020 federal census and to ensure the law continues to apply to the intended political subdivisions:
  - 109.33 – re: population threshold for Alcohol Free Zones
  - 109.57(e) – re: private club regulation
  - 251.726(a) – re: wet/dry status/annexation for the city of Grapevine
  - 251.727(a) – re: area annexed to Elkhart assumes the city's wet/dry status
  - 251.742(b) – re: local option election on the sale of AB in a proposed zone within a commercial area of the city of Portland

*TX Alc. Bev. Code Sec. 109.33, 109.57(e), 251.726(a), 251.727(a), 251.742(b) (HB 4559, 88R)*

# Sexually Oriented Performances

## SB 12 | Effective Sept. 1, 2023



- It is unlawful for “sexually oriented performances” to occur on the premises of a business in the presence of a person under 18.
- ***Sexually Oriented Performances are those that...***
  - Feature a nude performer or performer who engages in sexual conduct – which means a representation of sexual acts, devices for sexual stimulation, sexual gesticulations using accessories or prosthetics that exaggerate male/female sexual characteristics; AND
  - Appeals to the prurient interest in sex.

TX Health and Safety Code Chapter 769; TX Penal Code Sec. 43.28 (SB 12, 88R)

# Fees from Local Governments

## SB 577 | Effective Sept. 1, 2023



- A city or county with a public health district may not assess both a local fee for issuance or renewal of a permit under Sec. 437.012 or 437.0123 of the Local Government Code via the health district and the local fee for a license or permit issued or renewed by TABC.

**For additional information about this law, please contact your city and/or county officials.**

*TX Health and Safety Code Chapter 437.009, 437.0091, 437.01235, 437.027, 438.1055 (SB 577, 88R)*