

Texas Peace Officer's Guide

to the

Alcoholic Beverage Code



TABC

TEXAS ALCOHOLIC BEVERAGE COMMISSION

service ★ courtesy ★ integrity ★ accountability

Texas Alcoholic Beverage Commission

August 2017

This book belongs to:

This version contains revisions of the Alcoholic Beverage Code resulting from the 85th Legislative Session. Information in this guide is subject to change with the enactment of new laws and rules. The reader is advised to review current statute or rules or to contact the nearest office of the Texas Alcoholic Beverage Commission to verify that the information is current.

For more information on TABC programs and services, or to order additional copies of this publication, please call
your local TABC office
or e-mail: **education@tabc.texas.gov**

or write to:

**Texas Alcoholic Beverage Commission
P.O. Box 13127
Austin, Texas 78711
(512) 206-3333**

To report a violation of the Texas Alcoholic Beverage Code, call toll-free:
1-888-THE-TABC

**www.tabc.texas.gov
www.2young2drink.com**

The Texas Alcoholic Beverage Commission is an equal opportunity employer and does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment, or in the provision of services, programs or activities. In compliance with the Americans with Disabilities Act, this material may be requested in alternative formats by contacting the TABC at:

(512) 206-3220
(512) 206-3350 (fax)

or by writing:

P.O. Box 13127
Austin, Texas 78711

Page intentionally left blank.

Texas Alcoholic Beverage Commission

Mission:

To serve the people of Texas, and protect the public health and safety through consistent, fair, and timely administration of the Alcoholic Beverage Code.

Vision:

A safe and healthy Texas served by an innovative Alcoholic Beverage Commission regulating a responsible and compliant alcoholic beverage industry.

Philosophy:

The Texas Alcoholic Beverage Commission will:

- Apply the Alcoholic Beverage Code in a fair, consistent, and timely manner;
- Exemplify courteous, ethical, and professional behavior;
- Be fiscally responsible and accountable; and
- Be accessible, transparent, efficient and effective.

Cornerstones:

Service, Courtesy, Integrity, Accountability

Table of Contents

Page

INTRODUCTION

Brief History of Liquor Legislation	1
Texas Alcoholic Beverage Code	1
Duty of Peace Officers	2

DEFINITIONS	2
--------------------------	---

ARREST, SEARCH AND SEIZURE

Arrest without a Warrant	6
Search without a Warrant	6
Search with a Warrant	7
Authorized Seizures without a Warrant	8
Evidence Custody Reports	9

CRIMINAL OFFENSE PROVISIONS

Violation of Code or Rule	10
General Penalty	10

Offenses Relating to Minors

911 Lifeline Legislation	11
Possession of Intoxicants on Public School Grounds	12
Consumption / Open Containers near Schools	12
Purchase of Alcohol by a Minor	12
Sale to a Minor / Permitting a Minor to Possess or Consume	13
Consumption of Alcohol by a Minor	14
Driving Motor Vehicle or Operating Watercraft Under the Influence of Alcohol by a Minor	14
Attempt to Purchase Alcohol by a Minor	16
Possession of Alcohol by a Minor	16

Table of Contents

	Page
Purchase of Alcohol for a Minor / Furnishing Alcohol to a Minor.....	18
Misrepresentation of Age by a Minor.....	19
Punishment for Alcohol Related Offenses by a Minor	19
Fictitious License or Certificate.....	22
Delivery or Manufacture of Counterfeit ID	22
Specimen of Breath/Blood from a Child	23
Prohibited Activities by Persons Younger Than 18	24
Exception for Certain Coursework	24

Consumption and Open Container Violations

Sale and Consumption during Prohibited Hours	25
Hours of Sale	25
Consumption - Legal Hours.....	25
Consumption and Open Containers Prohibited.....	27
Criminal Offense of Consuming on Premises Licensed for Off-Premises Consumption	28
Consumption/Open Containers in Central Business District	29
Consumption/Open Containers near a Homeless Shelter or Substance Abuse Treatment Center	30
Consumption / Open Containers of Alcoholic Beverages near Schools.....	30

Dry Area Offenses

Alcoholic Beverages in Dry Areas	31
Prima Facie Evidence of Intent to Sell.....	32
Transportation of Beverages for Personal Consumption.....	32
Sell, Serve, Deliver Alcoholic Beverages without a Permit or License (Bootlegging)	32

Table of Contents

Page

Lewd, Immoral, Indecent Conduct

Consent to Inspection	34
-----------------------------	----

GUN REGULATIONS

Firearms on Licensed Premises	35
Unlawful Carrying of Weapons	35
Exceptions to Unlawful Carrying of Weapons	35
Unlawful Carrying of Handgun by License Holder	37
For Sale of Firearms on Licensed Premises	38
Gun Shows	38
Off-Premise Retailers and Gun Sales	38
Weapons Warning Sign	39

SUMMARY SUSPENSION FOR VIOLENT ACTS..... 39

ADMINISTRATIVE CASES

Criminal vs. Administrative Charges	41
Adjudication of Administrative Offenses	41
Hearing Requested.....	42
Cancellation and Suspension of Permits and Licenses.....	42
Cancellation of Private Club Permit.....	44
Place or Manner Defined.....	45
Common Nuisance	48

Other Administrative Violations

Seating Required.....	49
Public Interest Information Sign.....	49
Consumption Warning Sign.....	50
Health Risk Warning Sign.....	50
Human Trafficking Hotline Number Sign	51
Weapons Warning Sign	52

Table of Contents

Page

INFORMATION NEEDED FOR ADMINISTRATIVE ACTION

Common Elements for Any Case	54
------------------------------------	----

Administrative Checklist for Violations Involving Minors

Sale to Minor	56
Minor Sting Operations.....	59
Permit Minor to Possess/Consume an Alcoholic Beverage.....	59
Employment of Minors.....	61

Administrative Checklist for Intoxication Offenses

Sale to Intoxicated Person.....	64
Permittee or Licensee Intoxicated on the Licensed Premises	67
On-Premise Promotions	69
Source Investigations	69

Administrative Checklist for Prohibited Hours Violations

Legal Hours of Sale - On-Premise Retail Locations	71
Legal Hours of Sale - Off-Premise Retail Locations	71
Legal Hours of Sale - Package Stores	72
Legal Hours of Sale and Consumption - Brewery	72
Legal Hours of Sale and Consumption - Winery	72
Legal Hours of Sale-Distillery for On Premise Consumption.....	73
Legal Hours of Sale-Distillery for Off Premise Consumption	73
Legal Hours of Public Consumption	73
Sale during Prohibited Hours.....	74
Permitting Consumption of Alcoholic Beverages on Licensed Premises during Prohibited Hours.....	76

Table of Contents

	Page
Administrative Checklist for Permitting Lewd Conduct or Indecent Exposure	78
Administrative Checklist for Possession of Narcotics on the Licensed Premises	80
Administrative Checklist for Breach of Peace.....	83
Permitting a Breach of Peace on the Licensed Premises.....	84
Administrative Checklist for Inspection Refusal / Interfering with Inspection.....	86
Trafficking of Persons	88
The Role of TABC in Curbing Trafficking	89
 COMMON RETAIL ALCOHOLIC BEVERAGE PERMITS AND LICENSES	
Introduction.....	90
On- and Off-Premises Consumption Authorized	91
Retail Dealer's On-Premise License	91
Wine and Beer Retailer's Permit	91
Brewpub License	92
Off-Premises Consumption Only	93
Retail Dealer's Off-Premise License	93
Wine and Beer Retailer's Off-Premise Permit	93
Package Store Permit.....	93
Wine Only Package Store Permit.....	94
On-Premises Consumption Only	95
Mixed Beverage Permit	95
Private Club Registration Permit	96

Table of Contents

	Page
MANUFACTURING TIER	
Winery Permit	97
Brewer's Permit	97
Manufacturer's License	98
Distiller's and Rectifier's Permit	98
APPENDIX I	
TABC Offices in Texas	99
APPENDIX II	
Special Programs Available from TABC	105

For more information on licenses and permits download the
TABC:Mobile App
on the
Google Play
and
Apple App Store



INTRODUCTION

This guide contains information about the Texas Alcoholic Beverage Code and the Texas Alcoholic Beverage Commission to help Texas peace officers apply the relevant alcoholic beverage laws in their day-to-day duties.

Any legal citations contained in this document are referencing the Alcoholic Beverage Code unless otherwise stated.

Brief History of Liquor Legislation

The national prohibition law was passed in the United States on January 16, 1920 by the ratification of the 18th Amendment, and was repealed on December 5, 1933 by the 21st Amendment of the United States Constitution.

This amendment vested the sovereign authority to control alcoholic beverages to each state. Approximately two years later on November 16, 1935, the Texas Liquor Control Board was organized and began functioning with the passage of the Texas Liquor Control Act.

On January 1, 1970, the Texas Liquor Control Board was changed to the Texas Alcoholic Beverage Commission.

Texas Alcoholic Beverage Code

The laws contained in the Texas Alcoholic Beverage Code are an exercise of the police power of the state for the

protection of the welfare, health, peace, temperance and safety of the people of Texas. [Section 1.03 AB Code]

Duty of Peace Officers

All peace officers in the state, including those of cities, counties, and state, shall enforce the provisions of this Code and cooperate with and assist the Commission in detecting violations and apprehending offenders. [Section 101.07 AB Code]

DEFINITIONS

Alcoholic Beverage means alcohol, or any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.

Ale or Malt Liquor is a malt beverage containing more than 4% alcohol by weight.

Barrel is a quantity of beer equal to 31 standard gallons.

Beer is a malt beverage containing more than ½ of 1% of alcohol by volume and not more than 4% of alcohol by weight.

Bootlegging is the sale of alcohol without a permit/license.

Code refers to the Texas Alcoholic Beverage Code.

Commission is the Texas Alcoholic Beverage Commission.

Criminal Negligence - “A person acts with criminal negligence, or is criminally negligent, with respect to circumstances surrounding his conduct or the result of his conduct when he ought to be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor’s standpoint.” [Section 6.03(d) of the *Texas Penal Code*]

Distilled Spirits is alcohol or any liquor produced in whole or in part by the process of distillation (for example: whiskey, tequila, rum and vodka) and includes spirit coolers that may have an alcohol content as low as 4% alcohol by volume.

Human Trafficking is the illegal trade in human beings through the use of force, fraud or coercion, for purposes of sexual exploitation or forced labor or services. Trafficking does not always involve transporting a person, and it is common among US citizens as well as foreign nationals.

Trafficking victims can be found in bars and restaurants, as well as domestic help, sweat shops, prostitution rings, child pornography, agricultural work, au pair programs, janitorial services, construction, and salons.

Illicit Beverage means an alcoholic beverage:

1. manufactured, distributed, bought, sold, bottled, rectified, blended, treated, fortified, mixed, processed, warehoused, stored, possessed, imported, or transported in violation of the Code;
2. on which a tax imposed by the laws of this state has not been paid and to which the tax stamp, if required, has not been affixed; or
3. possessed, kept, stored, owned, or imported with intent to use, transport or sell in violation of this Code.

A ***License*** or ***Permit*** is a privilege, not a right. Generally, a *permit* authorizes the handling of liquor while a *license* authorizes the handling of beer. "A person commits an offense if the person knowingly allows another person to display or use a permit or license issued by the commission in any manner not allowed by law." [Section 101.76 AB Code]

Licensed Premises are any premises covered by permit or license issued by the Commission.

Licensee or Permittee *or* is a person who is the holder of a permit or license provided for in this Code, or any agent, servant, or employee of that person.

Liquor is any alcoholic beverage containing alcohol in excess of 4% by weight, unless otherwise indicated. It includes distilled spirits, wine, ale and malt liquor.

A **Minor** is a person under 21 years of age. [Section 106.01 AB Code]

Premises are the grounds and all buildings, vehicles, and appurtenances pertaining to the grounds, including any adjacent premises if they are directly or indirectly under the control of the same person.

Public Intoxication (PI) - A person commits an offense if the person appears in a public place while intoxicated to the degree that the person may endanger the person or another.-

Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops. [Section 1.07 Penal Code]

For the purposes of legal hours of public consumption and/or the offense of public intoxication, a licensed or permitted premise is a public place. [Section 49.02 Penal Code]

Wine and **Vinous Liquor** is the product obtained from the alcoholic fermentation of juice of grapes, fruits, berries, or honey, and includes wine coolers.

ARREST, SEARCH AND SEIZURE

Arrest without a Warrant

A peace officer may arrest without a warrant any person he observes violating any provision of this Code or any rule of the Commission. The officer shall take possession of all illicit beverages the person has in his possession or on his premises. [Section 101.02 AB Code] The beverages may be eventually forwarded to TABC for disposal.
[Section 103.6 AB Code]

Search without a Warrant

A peace officer may inspect or conduct an inspection of the premises covered by a license or permit at any time without a search warrant for the purpose of performing any duty imposed by the Code.

A permittee or licensee may designate a portion of the grounds, building, vehicles, and appurtenances to be excluded from the licensed premises (for example: a private residence or hotel room). The diagram which shows the designation is approved by TABC and must be displayed next to the license or permit on the premises.

By accepting a license or permit, the holder consents that the Commission, an authorized representative of the Commission, or a peace officer may enter the license premises at any time to conduct an investigation or inspect the premises for the purpose of performing any duty imposed by the Code.

A person commits an offense (Class A misdemeanor) if the person refuses to allow the commission, an authorized representative of the commission, or a peace officer to enter a licensed or permitted premises. [Section 101.04 AB Code]

No holder of a permit may refuse to allow the Commission, its authorized representative, or a peace officer, on request, to make a full inspection, investigation, or search of any vehicle. The vehicle must belong to the permit/license holder or be used for business related to the permit/license unless other search exceptions exist (e.g. plain view). [Section 101.71 AB Code]

Search with a Warrant

In most circumstances, if the place to be searched is not a licensed premise then the agent or peace officer must obtain a search warrant to search (e.g. includes unlicensed/unregistered clubs, sales without permit/license at apartments or homes, or from vehicles).

A search warrant must be obtained in order to search licensed premises for items which do not involve a violation of the Code.

Check with local prosecutors. If the CPO is searching a specific area of a licensed premises for a specific item or items, the prosecutor may advise to obtain a warrant.

A search warrant is required if the contraband may be located in an area for which the permit/license holder cannot

give consent to search (e.g. employee/customer purses, employee gym bags, employee lockers and employee vehicles, etc.).

NOTE: Warrant exceptions apply. It is best to follow your agency's policies and procedures.

Any items seized by the officer with a search warrant are retained by the officer pending final judgment in the proceedings. [Section 101.03 AB Code]

The affidavit for a search warrant:

1. Must be based on probable cause to believe that the property to be seized will be found on the premises;
2. To search any place other than a private residence requires only one affiant;
3. To search a private residence requires the signature of two affiants.

The warrant must clearly indicate the premises to be searched and must state the objects or things to be seized. [The 4th Amendment]

Authorized Seizures without a Warrant

A Peace Officer may seize without a Warrant:

1. Any illicit beverage, its container, and its packaging;
2. Any vehicle, including an aircraft or watercraft, used to transport an illicit beverage;
3. Any equipment designed for use in or used in manufacturing an illicit beverage;

4. Any material to be used in manufacturing an illicit beverage.

A person found in possession of the above items may be arrested without a warrant at the time of the seizure. [Sections 103.03 and 103.04 AB Code]

Evidence Custody Reports

A peace officer who makes a seizure of alcoholic beverages is required to make a report in triplicate, one of which shall be verified by oath. [Section 103.05 AB Code]

1. The verified copy shall be retained in the permanent files of the agency making the seizure.
2. One copy shall be given to the person from whom the seizure is made.
3. The third copy is generally kept with the seizure of alcoholic beverages.

A peace officer who makes a false report of property seized commits a felony punishable by confinement in the penitentiary for two to five years. [Section 103.05(d) AB Code]

A peace officer who fails to file the reports of a seizure as required commits a misdemeanor punishable by a fine of \$50 to \$100, or by confinement in jail for 10 to 90 days, or by both. [Section 103.05(e) AB Code]

After final judgment has been rendered, any alcoholic

beverage, its container, and its packaging which has been seized by a peace officer may not be replevied and shall be delivered to the Commission for immediate disposal or sale. [Sections 101.03 and 103.06 AB Code]

CRIMINAL OFFENSE PROVISIONS

Violation of Code or Rule

A person who fails or refuses to comply with a requirement of this code or a valid rule of the Commission violates this code [Section 101.61 AB Code]

General Penalty

A person who violates a provision of this Code for which a specific penalty is not provided is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$100 nor more than \$1,000 or by confinement in the county jail for not more than one year or by both. The term *specific penalty*, as used in this section, means a penalty which might be imposed as a result of a criminal prosecution. [Section 1.05 AB Code]

Offenses Relating to Minors

[Chapter 106 AB Code]

NOTE: When possible, please include a photograph of non-juvenile minors in the report, along with a copy of the identification. This helps to show their youthful appearance

in cases in which a sale or making alcoholic beverages available case occurred.

911 Lifeline Legislation

[Section 106.04(e) and 106.05(d) AB Code]

The offenses of possession or consumption of alcohol by a minor do NOT apply to a minor who:

- requested emergency medical assistance in response to the possible alcohol overdose of the minor or another person;
- was the first person to make a request for medical assistance; and
- remained on the scene and cooperated with medical assistance and law enforcement personnel; or
- reports the sexual assault of the minor or another person, or is the victim of a sexual assault reported by another person to:
 - (1) a health care provider treating the victim of the sexual assault;
 - (2) an employee of a law enforcement agency, including an employee of a campus police department of an institution of higher education; or
 - (3) the Title IX coordinator of an institution of higher education or another employee of the institution responsible for responding to reports of sexual assault.

Possession of Intoxicants on Public School Grounds

[Section 37.122 Texas Education Code]

A person commits an offense if the person possesses an intoxicating beverage for consumption, sale or distribution while: (1) On the grounds or in the building of a public school; or (2) Entering or inside any enclosure, field, or stadium where an athletic event sponsored or participated in by a public school of this state is being held. An offense under this section is a Class C misdemeanor.

Consumption / Open Containers of Alcoholic Beverages near Schools

[Section 101.75 AB Code]

A person commits an offense if the person possesses an open container or consumes an alcoholic beverage on a public street, public alley, or public sidewalk within 1,000 feet of the property line of a facility that is a public or private school, including a parochial school that provides all or any part of prekindergarten through twelfth grade education.

Purchase of Alcohol by a Minor

[Section 106.02 AB Code]

A minor commits an offense if the minor purchases an alcoholic beverage. The minor may purchase an alcoholic beverage if under the immediate supervision of a commissioned peace officer engaged in enforcing the provisions of this Code (minor sting or compliance check).

Sale to a Minor / Permitting a Minor to Possess or Consume

[Section 106.03 and 106.13 AB Code]

A person commits an offense if, with criminal negligence, the person sells, an alcoholic beverage to a minor. (A minor may possess or consume alcoholic beverages if the minor is in the visible presence of his/her adult parent, guardian or spouse.)

A person who sells an alcoholic beverage to a minor does not commit an offense if the minor falsely represents himself to be 21 years old or older by displaying an apparently valid proof of identification that contains a physical description and photograph consistent with the minor's appearance, purports to establish that the minor is 21 years of age or older, and was issued by a governmental agency.

The proof of identification may include a driver's license or identification card issued by the Department of Public Safety, a passport, or a military identification card.

This does not apply to a person who accesses electronically readable information under §109.61 that identifies a driver's license or identification certificate as invalid.

Sale of alcohol to a minor is a class A misdemeanor.

Consumption of Alcohol by a Minor

[Section 106.04 AB Code]

A minor commits an offense if the minor consumes an alcoholic beverage. It is a defense to prosecution that the alcoholic beverage was consumed in the visible presence of the minor's adult parent, guardian, or spouse.

Driving a Motor Vehicle or Operating Watercraft under Influence of Alcohol by a Minor

[Section 106.041AB Code / Section 524.022

Transportation Code]

This law is known as the zero tolerance law. A minor commits an offense if the minor operates a motor vehicle in a public place, or a watercraft, while having a *detectable* amount of alcohol in the minor's system.

First Offense:

1. Class C misdemeanor
2. Alcohol awareness course
3. Community service: 20-40 hours relating to education about or prevention of misuse of alcohol
4. The court shall order the Department of Public Safety to suspend or deny the minor's driver's license for 60 days, 30 days of which the minor is not eligible for an occupational license.
5. The charge cannot be a lesser included offense of DWI.

NOTE: [Section 106.15 AB Code] authorizes a court to allow an individual to take an online awareness course and serve no less than 8 hours of community service if they live in a

county with a population of less than 75,000 and another course is not readily available.

Second Offense:

1. Class C misdemeanor
2. Alcohol awareness course (judge's discretion)
3. Community service: 40-60 hours relating to education about or prevention of misuse of alcohol
4. The court shall order the Department of Public Safety to suspend or deny the minor's driver's license for 120 days, 90 days of which the minor is not eligible for an occupational license.
5. The charge cannot be a lesser included offense of DWI.

Third Offense:

If it is shown at the trial of the defendant that the defendant is a minor who is not a child, the offense is punishable by the following:

1. Class B misdemeanor: a fine of not less than \$500 or not more than \$2,000;
2. Confinement in jail for a term not to exceed 180 days, or
3. Both the fine and confinement.
4. The court shall order the Department of Public Safety to suspend or deny the minor's driver's license for 180 days, during which the minor is not eligible for an occupational license.
5. Is not eligible for deferred disposition.
6. Cannot be a lesser included offense of DWI.

If the minor is a child (under 17 years of age as defined by Section 51.02, *Family Code*), the offense is punishable by the following:

1. The court shall order the Department of Public Safety to suspend or deny the minor's driver's license for 180 days, and the minor is not eligible for an occupational license.
2. Is not eligible for deferred disposition.
3. Cannot be a lesser included offense of DWI.
4. The child is remanded to juvenile court as delinquent conduct; or remanded to criminal court to be adjudicated as an adult.

Attempt to Purchase Alcohol by a Minor

[Section 106.025 AB Code]

A minor commits an offense if, with specific intent to purchase alcoholic beverages, the minor does an act amounting to more than mere preparation but fails to purchase alcoholic beverages.

Possession of Alcohol by a Minor

[Section 106.05 AB Code]

A minor may not possess an alcoholic beverage, EXCEPT:

- while in the course and scope of the minor's employment and the employment is not prohibited by this Code;
- if the minor is in the **visible presence** of an adult parent, guardian, spouse, or other adult to whom he had been committed by court; or
- if the minor is under the immediate supervision of a

commissioned peace officer engaged in enforcing the provisions of this Code; or

- if the beverage is lawfully provided to the minor under [Section 106.16 AB Code].

The term “possession” has the same meaning as that found in Section 1.07(a) (39) of the *Texas Penal Code*. The minor-in-possession offense can be proven if the minor is in actual control of the alcoholic beverage(s) by physical contact or by establishing an “affirmative link” between the alcoholic beverage and the minor.

Some affirmative links include:

1. the alcoholic beverages were within the minor’s plain view;
2. the amount of alcoholic beverages;
3. the alcoholic beverage was accessible to the minor;
4. the minor’s ownership or right of possession of the site of the alcoholic beverages;
5. the relationship of the minor to other persons with access to the alcoholic beverages; or
6. knowledge of the presence of the alcoholic beverages.

The number of factors present is not as important as the constructive possession (affirmative action) or the degree to which the factors, alone or in combination, tend to link the minor to the alcoholic beverages.

Affirmative Links originated from caselaw from drug possession cases, so you are likely already familiar with them. Contact the local prosecutor in your area to determine

if you can prosecute cases where possession is established by an affirmative link.

Typically being a minor at a party with only other minors and enough alcoholic beverages for everyone is not necessarily an affirmative link – more is typically required before filing on the minor (e.g. portable breath test, strong odor, furtive gesture, etc.).

Purchase of Alcohol for a Minor / Furnishing Alcohol to a Minor

[Section 106.06 AB Code]

Generally, a person commits an offense if the person (adult or minor) purchases an alcoholic beverage for or gives or with criminal negligence makes available an alcoholic beverage to a minor.

A person may purchase an alcoholic beverage for or give an alcoholic beverage to a minor if the person is the minor's adult parent, guardian, spouse, or an adult in whose custody the minor has been committed by a court, and is visibly present when the minor possesses or consumes the alcoholic beverage; or a person lawfully providing an alcoholic beverage to a minor under Section 106.16.

An offense under this section is a Class A misdemeanor, as well as a mandatory 180-day driver's license suspension.

[Section 521.351 Transportation Code]

A judge, acting under Chapter 42A, Code of Criminal Procedure, who places a defendant charged with an offense under this section on community supervision under this

section on community supervision under that [article] shall, if the defendant committed the offense at a gathering where participants were involved in the abuse of alcohol, including binge drinking or forcing or coercing individuals who consume alcohol in addition to any other condition imposed by the judge:

- (1) require the defendant to:
 - (A) perform community service for not less than 20 or more than 40 hours; and
 - (B) attend an alcohol awareness program approved under Section 1063.115; and
- (2) order the Department of Public Safety to suspend the driver's license or permit of the defendant, or if the defendant does not have a driver's license or permit, to deny the issuance of a driver's license or permit to the defendant for 180 days.

Misrepresentation of Age by a Minor

[Section 106.07 AB Code]

A minor commits an offense if the minor falsely states that he or she is 21 years of age or older, or presents any document that indicates he or she is 21 years of age or older to a person engaged in selling or serving alcoholic beverages.

Punishment for Alcohol Related Offenses by a Minor

[Sections 106.071 and 106.115 AB Code]

The following punishment applies to the offenses of:

- minor in possession [Section 106.05 AB Code]

- consumption of alcohol by a minor [Section 106.04 AB Code]
- attempted purchase of alcoholic beverages by a minor [Section 106.025 AB Code]
- purchase of alcoholic beverages by a minor [Section 106.02 AB Code]
- misrepresentation of age [Section 106.07 AB Code]
- public intoxication by a minor [*Texas Penal Code*, Section 49.02(e)]

First Offense:

1. Class C misdemeanor
2. Alcohol awareness class
3. Community service: 8-12 hours relating to education about or prevention of misuse of alcohol or drugs, as applicable.
4. The court shall order the Department of Public Safety to suspend or deny the minor's driver's license for 30 days.

Second Offense:

1. Class C misdemeanor
2. Alcohol awareness class at the judge's discretion
3. Community service: 20-40 hours relating to education about or prevention of misuse of alcohol or drugs as applicable.
4. The court shall order the Department of Public Safety to suspend or deny the minor's driver's license for 60 days.

NOTE: [Section 106.115 AB Code] authorizes a court to allow an individual to take an online awareness course and serve no less than 8 hours of community service if they live in a county with a population of less than 75,000 and another course is not readily available.

Third Offense:

If it is shown at the trial of the defendant that the defendant is a minor who is not a child, the offense is punishable by:

1. Fine of not less than \$250 or not more than \$2,000;
2. Confinement in jail not to exceed 180 days, or
3. Both the fine and confinement
4. The court shall order the Department of Public Safety to suspend or deny the minor's driver's license for 180 days.

If the minor is a child (under 17 years of age as defined by Section 51.02, Family Code), the offense is punishable by the following:

1. The court shall order the Department of Public Safety to suspend or deny the minor's driver's license for 180 days.
2. The child shall be remanded to juvenile court as a child in need of supervision; or remanded to criminal court to be adjudicated as an adult.

For the purpose of determining whether a minor has been previously convicted of an offense (enhancement only) to which this section applies:

1. An adjudication under Title 3, Family Code, that the minor engaged in conduct described by this section is considered a conviction under this section; and
2. An order of deferred disposition for an offense alleged under this section is considered a conviction of an offense under this section.

Fictitious License or Certificate

[*Transportation Code*, Section 521.453]

A person under the age of 21 years commits an offense if the person possesses, 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 unless the document displays the statement "NOT A GOVERNMENT DOCUMENT" diagonally printed clearly and indelibly on both the front and back of the document in solid red capital letters at least 1/4 inch in height.

The document is deceptively similar if a reasonable person would assume the document was issued by the Department of Public Safety, another agency of this state, another state or the United States.

An offense under this section is a class C misdemeanor.

Delivery or Manufacture of Counterfeit Identification

[Section 521.456 *Transportation Code*]

A person who possesses with the 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 commits an offense. An offense under this section is a class A misdemeanor.

A person who manufactures or produces with the intent to sell, distribute, or deliver a forged or counterfeit instrument that the person knows is not made by the appropriate authority commits an offense. An offense under this section is a third degree felony.

Specimen of Breath or Blood from a Child

[Section 52.02 Family Code]

A person who takes a child into custody and who has reasonable grounds to believe that the child has been operating a motor vehicle in a public place while having any detectable amount of alcohol in the child's system may, (before releasing the child to a parent or other person listed in §52.02 (a), Family Code, bringing the child before the juvenile court, bringing the child to a detention center or medical facility) take the child to a place to obtain a specimen of the child's breath or blood and perform intoxilyzer processing and videotaping of the child in an adult processing office of a law enforcement agency.

A child may submit to the taking of a breath specimen or refuse to submit to the taking of a breath specimen without the concurrence of an attorney, but only if the request made of the child to give the specimen and the child's response to that request is videotaped. A videotape made under this subsection must be maintained until the disposition of any proceeding against the child relating to the arrest is final

and be made available to an attorney representing the child during that period.

Prohibited Activities by Persons Younger Than 18

[Section 106.15 AB Code]

A permittee or licensee commits an offense if he employs, authorizes, permits or induces a person younger than 18 years of age to dance with another person in exchange for a benefit, as defined by Section 1.07, Penal Code, on the premises covered by the permit or license. An offense under this section is a Class A misdemeanor.

This section does not apply to a gift or benefit given for a dance at a wedding, anniversary, or similar event.

A person does not commit an offense under this section if the person younger than 18 years of age falsely represents the person's age to be at least 18 years of age by displaying an apparently valid Texas driver's license or an identification card issued by the Department of Public Safety containing a physical description consistent with the person's appearance.

Exception for Certain Coursework

[Section 106.16 AB Code]

A minor may taste an alcoholic beverage if the minor is at least 18 years old and enrolled in certain coursework.

Consumption and Open Container Violations

[Sections 22.10, 22.11, 24.09, 24.10, 52.01, 61.12, 101.72, and 102.02 AB Code]

Sale and Consumption during Prohibited Hours

[Section 105.10 AB Code]

A permittee commits an offense if the person sells or offers for sale an alcoholic beverage during prohibited hours.

A permittee commits an offense if the permittee consumes or permits the consumption of an alcoholic beverage on the person's licensed or permitted premises during prohibited hours.

An offense under this section is a Class A misdemeanor.

Hours of Sale

See individual type of license or permit in section "Common Retail Alcoholic Beverage Permits and Licenses" for legal hours of sale.

Consumption - Legal Hours

[Section 105.06 AB Code]

In a standard hours area, a person commits an offense if he consumes or possesses with intent to consume an alcoholic beverage in a public place at any time on Sunday between 1:15 a.m. and 12 noon or on any other day between 12:15 a.m. and 7:00 a.m.

In an extended hours area, a person commits an offense if he consumes or possesses with intent to consume an alcoholic beverage in a public place at any time on Sunday between 2:15 a.m. and 12 noon and on any other day between 2:15 a.m. and 7:00 a.m.

Proof that an alcoholic beverage was possessed with intent to consume in violation of this section requires evidence that the person consumed an alcoholic beverage on that day in violation of this section. Exception: Alcoholic beverages may be served to a customer between 10:00 a.m. and 12 noon on Sunday with the service of food and to persons located at a festival, fair or concert or Sports Venue, as defined by Section 108.7 of the Alcoholic Beverage Code. The beverages shall be served for on-premises consumption at establishments where consumption of the premises is authorized.

An offense under this section is a Class C misdemeanor.

“Extended hours area” means an area subject to the extended hours of sale provided as follows:

1. In a city/county having a population of 800,000 or more, according to the last preceding federal census, or 500,000 or more, according to the 22nd Decennial Census of the United States, as released by the Bureau of the Census on March 15, 2010. A holder of a mixed beverage late hours permit may also sell and offer for sale mixed beverages between midnight and 2:00 a.m. on any day.
2. In a city/county other than a city or county described

above, a holder of a mixed beverage late hours permit may also sell and offer for sale mixed beverages between midnight and 2:00 a.m. on any day:

- a. in the unincorporated areas of the county if the hours are adopted by an order of the commissioners court; and
 - b. in an incorporated city or town if the extended hours are adopted by an ordinance of the governing body of the city or town.
3. In a county other than a county described in item 1, a holder of a retail dealer's on-premise late hours license (beer) may also sell, offer for sale, and deliver beer between midnight and 2:00 a.m. on any day.
4. In a county other than a county described in item 1 a holder of a retail dealer's on-premise late hours license (beer) may also sell, offer for sale, and deliver beer between midnight and 2:00 a.m. on any day, or any part of these extended hours prescribed:
- a. in the unincorporated areas of the county if the hours are adopted by an order of the commissioners court; and
 - b. in an incorporated city or town if the extended hours are adopted by an ordinance of the governing body of the city or town.

Consumption and Open Containers Prohibited

[Sections 22.10, 22.11, 24.09, 24.10, 52.01, 61.12, 101.72, and 102.02 AB Code]

A person may not *open, break, or possess* an opened container of liquor or beer on the premises of a location

that possesses a license or permit authorizing off-premises consumption only.

A person may not sell, exchange, deliver, or give away any alcoholic beverages from a container that has been opened on the premises of a license or permit authorizing off-premises consumption only.

Two exceptions are found which allow consumption or possession of an open container on an off-premises location.

1. Consumption as authorized for tasting events on the premises of a licensed establishment for the alcoholic beverages they are licensed to sell.
2. A wholesaler or his/her employee or agent may give a sample of *liquor* to a retailer that handles that type of liquor if the retailer has not previously purchased that brand from that wholesaler. The retailer may sample the product on the licensed premises only if the wholesaler or his/her employee is present. The wholesaler may give the retail permittee not more than 750 milliliters of any brand of distilled spirits, not more than three liters of any brand of wine in that package, and not more than one six-pack of any other alcoholic beverage so packaged. [Section 102.02 AB Code]

Criminal Offense of Consuming on Premises Licensed for Off-Premises Consumption

[Sections 101.72 AB Code]

A person (including a retailer or his/her employee) commits an offense if the person **knowingly** consumes liquor or beer

on the premises of a wine and beer retailer's off-premise permit or a retail dealer's off-premise license.

A person **knowingly** committed the offense if the required warning sign is displayed on the premises: *"It is a crime (misdemeanor) to consume liquor or beer on these premises."*

A violation of this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$200.

If a person has been convicted of a violation of this section occurring within a year of a subsequent violation, the subsequent violation is a misdemeanor punishable by a fine of not less than \$100 nor more than \$200.

NOTE: If it can be shown through testimony, video or still pictures that the permittee or licensee was aware that people consumed alcoholic beverages on the off-premise licensed premises, the permittee or licensee may be charged with Permitting Consumption on an Off Premise License or Permit.

Consumption / Open Containers in a Central Business District

[Section 109.35 AB Code]

If the governing body of a municipality determines that the possession of an open container or the public consumption of alcoholic beverages in the central business district of the municipality is a risk to the health and safety of the citizens of the municipality, the governing body may by charter or ordinance prohibit the possession of an open container or

the public consumption of alcoholic beverages in the central business district.

Consumption / Open Containers near a Homeless Shelter or Substance Abuse Treatment Center

[Section 109.36 AB Code]

The commissioners court of a county may enact regulations applicable in areas in the county outside an incorporated city or town, and the governing board of an incorporated city or town may enact regulations applicable in the city or town, prohibiting the possession of an open container or the consumption of an alcoholic beverage on a public street, public alley, or public sidewalk within 1,000 feet of the property line of a homeless shelter that is not located in a central business district or a substance abuse treatment center that is not located in a central business district.

If the Commissioners Court of a county or the governing board of an incorporated city or town enacts a prohibition, the Commissioners Court or the governing board may enact regulations allowing special temporary events for which the prohibition may be suspended.

Consumption / Open Containers of Alcoholic Beverages near Schools

[Section 101.75 AB Code]

A person commits an offense if the person possesses an open container or consumes an alcoholic beverage on a public street, public alley, or public sidewalk within 1,000 feet of the property line of a facility that is a public or private

school, including a parochial school that provides all or any part of prekindergarten through twelfth grade.

Dry Areas Offenses

The *Alcoholic Beverage Code* gives each political subdivision of the state the ability to hold local option elections to determine if the political subdivision will allow or not allow the sale of alcoholic beverages.

An area may be entirely wet, which means the area allows the sale of all types of legal alcoholic beverages. An area may be partially wet, which means the area may only allow the sale of certain alcoholic beverages such as wine or wine and beer. An area may also be completely dry, which means the sale of alcoholic beverages is illegal in the subdivision. Many combinations of wet and dry are possible.

Alcoholic Beverages in Dry Areas

[Section 101.31 AB Code]

Generally, no person in a dry area may manufacture, distill, brew, sell, import into the state, export from the state, transport, distribute, warehouse, store, solicit or take orders for, or possess with intent to sell an alcoholic beverage. An adult may possess beer for personal use in any area.

Prima Facie Evidence of Intent to Sell

[Section 101.32 AB Code]

Possession of more than one quart of liquor, or more than 24 twelve-ounce bottles of beer, or an equivalent amount, in

a dry area is prima facie evidence that it is possessed with intent to sell. Contact your local county or district attorney for any special requirements or considerations for prosecution.

Transportation of Beverages for Personal Consumption

[Section 107.08 AB Code]

A person who purchases an alcoholic beverage for his own consumption may transport it from a place where its sale is legal to a place where its possession is legal without holding a license or permit.

Sell, Serve, Deliver Alcoholic Beverages without a Permit or License (Bootlegging)

In order to sell, import into this state, distribute, possess for the purpose of sale, or store alcoholic beverages, a person must first obtain the proper permit or license. [Section 11.01; 61.01; and 109.53 AB Code]

Sale without a permit or license may be a direct sale or may involve a cover charge and “all you can drink.” Either is a violation.

Lewd, Immoral, Indecent Conduct

[Section 104.01 AB Code]

No person authorized to sell beer at retail, nor the person's agent, servant, or employee, may engage in or permit conduct on the premises of the retailer which is lewd, immoral, or offensive to public decency, including, but not limited to, any of the following acts:

1. The use of loud and vociferous or obscene, vulgar, or indecent language, or permitting its use;
2. The exposure of a person or permitting a person to expose himself or herself; Refer to Section 21.08 or 42.01 (a) (10) of the *Texas Penal Code*.
3. Rudely displaying or permitting a person to rudely display a pistol or other deadly weapon in a manner calculated to disturb persons in the retail establishment;
4. Solicitation of any person to buy drinks for consumption by the retailer or any of the retailer's employees;
For the purposes of Subsection (a)(4), a solicitation is presumed if an alcoholic beverage is sold or offered for sale for an amount in excess of the retailer's listed, advertised, or customary price. The presumption may be rebutted only by evidence presented under oath. [Section 104.01(b) AB Code]
5. Being intoxicated on the licensed premises;
6. Permitting lewd or vulgar entertainment or acts; Refer to Chapter 21 of the *Texas Penal Code* for actions that constitute public lewdness.
7. Permitting solicitations of persons for immoral or sexual purposes;
8. Failing or refusing to comply with state or municipal health or sanitary laws or ordinances; or
9. Possession of a narcotic or any equipment used or designed for the administering of a narcotic or permitting a person on the licensed premises to do so. [Narcotic is defined in the Health and Safety Code, *Texas Controlled Substances Act* §481.002.]

NOTE: Should the offense committed for lewd or vulgar entertainment violate Chapter 21 or Chapter 43 of the *Texas Penal Code*, both criminal and administrative charges may be pursued. The offense must violate the *Texas Penal Code* for a criminal violation. Any case written for these offenses should cite Chapter 21 or 43 of the *Texas Penal Code*, rather than Section 104.01 of the *Alcoholic Beverage Code*.

Consent to Inspection

[Section 101.04 AB Code]

By accepting a license or permit, the holder consents to the Commission, an authorized representative of the Commission, or a peace officer entering the licensed premises at any time to conduct any investigation or inspect the premises for the purpose of performing any duty imposed by this [the Alcoholic Beverage] Code.

A person commits an offense if the person refuses to allow the commission, an authorized representative of the commission, or a peace officer to enter licensed or permitted premises.

An offense under this section is a Class A misdemeanor.

NOTE: Judgment is critical. For example, TABC would not typically conduct an inspection at 2:00 a.m. for a business that closed at 8:00 p.m.

GUN REGULATIONS

Firearms on Licensed Premises

[Sections 11.61(e) and 61.71(f) AB Code]

The Commission shall cancel a retail alcoholic beverage permit or license if it is found, after notice and hearing, that the permittee or licensee knowingly allowed a person to possess a firearm in a building on the licensed premises. (See “Exceptions” below for instances when a person may carry a firearm on the premises.)

Unlawful Carrying of Weapons

[Section 46.02 Texas Penal Code]

A person commits an offense if he intentionally, knowingly, or recklessly carries on or about his or her person a handgun, illegal knife, or club. (See § 46.02 Texas Penal Code for full text.)

An offense under this section is a Class A misdemeanor.

An offense under this section is a third degree felony if the offense is committed on any premises licensed or issued a permit by this state for the sale of alcoholic beverages. (See “Exceptions” below for instances when a person may carry a firearm on a premises licensed or issued a permit by this state to sell alcoholic beverages.)

Exceptions to Unlawful Carrying of Weapons

[Sections 11.61(e) and 61.71(f) Alcoholic Beverage Code, Section 46.15 Texas Penal Code]

Sections 11.61(e) and 61.71(f) of the Alcoholic Beverage Code and Section 46.02 of the Texas Penal Code do not apply to a person who:

1. holds a security officer commission issued under Chapter 1702 by the Texas Occupations Code, if:
 - a. the person is engaged in the performance of the person's duties as a security officer;
 - b. the person is wearing a distinctive uniform; and
 - c. the weapon is in plain view;
2. is a peace officer;
3. is an alcoholic beverage licensee or permittee or employee of a licensee or permittee if the person is supervising the operation of the premises; or the firearm is possessed for ceremonial and/or display purposes, if such firearm is disabled from use as a firearm;
4. possesses a handgun and the person is licensed to carry;
5. is engaged in an historic reenactment approved by the Commission and no live ammunition is present; or
6. possesses a concealed handgun inside of or directly en route to a motor vehicle that is owned by the person or under the person's control and the person is not:
 - a. engaged in criminal activity other than a Class C misdemeanor traffic or boating violation; or
 - b. prohibited by law from possessing a firearm; or
 - c. a member of a criminal street gang as defined in the Penal Code.

An offense still occurs if the licensee/permittee is on the premises of a business that has a mixed beverage permit, a private club registration permit, a wine and beer retailer's permit or a beer retailer's on-premise license if the business derives 51 percent or more of its income from the sale of alcoholic beverages for on-premise consumption.

Unlawful Carrying of Handgun by License Holder

[Section 46.035 Penal Code]

A license holder commits an offense if the license holder carries a handgun on or about the license holder's person under the authority of the license to carry a handgun law, and intentionally displays the handgun in plain view of another person in a public place. It is an exception to the application of this subsection that the handgun was partially or wholly visible but was carried in a shoulder or belt holster by the license holder.

A license holder commits an offense if, *while intoxicated*, the license holder carries a handgun under the authority of the license to carry a handgun statutes, regardless of whether the handgun is concealed or carried in a shoulder or belt holster.

An offense under this section is a Class A misdemeanor unless the offense is committed on the premises of a business that has a mixed beverage permit, a private club registration permit, a wine and beer retailer's permit or a beer retailer's on-premise license if the business derives 51 percent or more of its income from the sale of alcoholic

beverages for on-premise consumption, in which case the offense is a third degree felony.

For Sale of Firearms on Licensed Premises

Contact your local TABC office.

To obtain a list of offices visit: **www.tabc.texas.gov**

Gun Shows

[TABC Rule 36.1]

Alcoholic beverage permittees or licensees may use or allow a portion of the grounds, buildings, vehicles and appurtenances of their licensed premises for the use of gun shows if they:

1. suspend all sales, complimentary offers and consumption of all alcoholic beverages during the gun show including time required for preparation or set-up and dismantling of the gun show; and
2. operate the licensed premises at a facility regularly used for special functions, directly or indirectly, under a lease, concession or similar agreement from a governmental entity or legally formed and duly recognized civic, religious, charitable, and fraternal or veterans' organization.

Off-Premise Retailers and Gun Sales

[TABC Rule 36.1]

The holder of a retail dealer's off-premise license, a wine and beer retail dealer's off-premise permit, a wine only package

store or package store permit may allow the sale or offer for sale firearms at the licensed location if:

1. alcoholic beverages are not being displayed or sold in any area where firearms are readily accessible or can be viewed; and
2. the firearms are secure from the general public and are only accessible by employees of the person or entity offering the firearms for sale.

Weapons Warning Sign

[Sections 11.041 and 61.11 AB Code]

See page 52 for sign requirements.

SUMMARY SUSPENSION FOR VIOLENT ACTS

[Sections 11.61(d), 11.613 and 61.71(e) AB Code]

The Commission, without a hearing, may for investigative purposes, summarily suspend a retail dealer's license, a mixed beverage permit, a private club registration permit, or a wine and beer retailer's permit for not more than seven days if the Commission finds that:

- a shooting, stabbing, or murder has occurred on the licensed premises
- which is likely to result in a subsequent act of violence.

NOTE: Summary Suspension for Violent Acts is sometimes referred to as an Emergency Summary Suspension.

Notify the local TABC Office as soon as possible – TABC has 24 hours to serve notice to the establishment.

Notice of the order suspending the license or permit is given to the licensee or permittee personally within 24 hours of the time the violent act occurs or if the licensee or permittee cannot be located, the notice is posted on the front door of the licensed premises. Notice is given to a private club permittee within 72 hours of the time the violent act occurs. Contact your local TABC office to report any violent act that occurs on a licensed premise and to inquire about this type of summary suspension.

NOTE: The potential for ongoing violence may include:

Gang or organized criminal involvement; domestic situations; *res gestae* statements by principles that the violence will continue; permittee/licensee involvement in the violence.

ADMINISTRATIVE CASES

If a criminal violation occurs on licensed premises, TABC may take administrative action against the permit or license. After a review of the submitted facts, TABC can adopt the report and take action which may result in the suspension or cancellation of the permit/license, or a fine in lieu of the suspension.

Criminal vs. Administrative Charges – The Essential Differences:

Criminal

- Burden of Proof = beyond a reasonable doubt
- Disposed of by Criminal Court or Local Prosecutor (settlement or refusal)
- May have administrative case for TABC to file

Administrative

- Burden of Proof = Preponderance of the evidence (as in other civil cases)
- Disposed of by Administrative Law Judge (State Office of Administrative Hearings – SOAH), County Judge, TABC Legal Division (settlement), or TABC Supervisor (settlement)
- May have related criminal case. For this reason, TABC prefers to prove each case beyond a reasonable doubt

Adjudication of Administrative Offenses

Depending on the offense committed, when the Commission is authorized to suspend a license or permit, the Commission may be required to give the licensee or permittee the option of paying a civil penalty in lieu of the suspension. If the offense was for a violation which threatened the health, safety and welfare of the general public, the Commission retains the right to suspend the license or permit instead of allowing the payment of a fine.

The Code specifically prohibits the Commission from giving the licensee or permittee the option of paying a civil penalty for certain offenses.

Specifically designated Commission personnel are authorized to settle cases.

The licensee or permittee may request a hearing if they do not wish to settle the case.

Hearing Requested

If a hearing is requested, the administrative case is adjudicated before the State Office of Administrative Hearings as required by state law, with all the rules of due process. The location is allowed to stay in business during the adjudication and appeal process, even if the Commission recommends cancellation of the license or permit.

Cancellation and Suspension of Permits and Licenses

[Sections 11.61, 11.611, 11.612, 61.71, 61.711 AB Code]

After notice and hearing, the Commission may suspend for not more than 60 days, or cancel a retail permit or license if it is found that any of the following is true.

The licensee or permittee:

- conducts the business in a place or manner which warrants the cancellation or suspension of the permit or license based on the general welfare, health, peace, morals and safety of the people and on the public sense of decency;
- maintains a noisy, lewd, disorderly, or unsanitary establishment or has supplied impure or otherwise deleterious beverages;

- is insolvent or mentally or physically unable to carry on the management of the establishment;
- is in the habit of using alcoholic beverages to excess;
- was intoxicated on the licensed premises;
- with criminal negligence sold, served, or delivered an alcoholic beverage to a person under 21 years of age;
- sold, served, or delivered an alcoholic beverage to an intoxicated person;
- sold, served, or delivered alcoholic beverages at a time when its sale is prohibited;
- does not have at his licensed premises running water, if it is available, and separate, identified toilets for both sexes; employed a person under 18 years of age to sell, handle, or dispense beer, or to assist in doing so, in an establishment where beer is sold for on-premise consumption;
- refused to allow or interfered with an inspection of the licensed premises by an authorized representative of the Commission or a peace officer;
- permitted the use or display of his license or permit in the conduct of a business for the benefit of a person not authorized by law to have an interest in the license;
- maintained blinds or barriers at his place of business in violation of the Code;
- consumed an alcoholic beverage or allowed one to be consumed on the licensed premises at a time when the consumption of alcoholic beverages is prohibited by the Code;
- purchased, sold, offered for sale, distributed, or

delivered an alcoholic beverage, or consumed an alcoholic beverage or allowed one to be consumed on the licensed premises while the license or permit was under suspension;

- failed to promptly report to the Commission a breach of the peace occurring on the licensed premises;
- has been finally convicted of any offense under a state or federal law or a municipal ordinance prohibiting the violation of an individual's civil rights or the discrimination against an individual on the basis of the individual's race, color, creed, or national origin; and the offense was committed on the licensed premises or in connection with the operation of the licensee's or permittee's business.

By definition, the terms "licensee" and "permittee" include the agents, servants and employees of the license or permit holder.

NOTE: The above list is not inclusive, nor direct quotes, of all violations for which administrative action may be considered by the Commission.

Cancellation of Private Club Permit

[Section 11.612 AB Code]

The Commission may cancel a private club registration permit and private club late hours permit and may refuse to issue any new alcoholic beverage permit for the same premises for one year after the date of cancellation if:

1. the chief of police of the municipality, if the premises are located in an incorporated area, or the sheriff of the county in which the premises are located has submitted a sworn statement to the Commission stating specific allegations that the place or manner in which the permittee conducts its business endangers the general welfare, health, peace, morals, or safety of the community; and
2. the Commission finds, after notice and hearing within the county where the premises are located, that the place or manner in which the permittee conducts its business does in fact endanger the general welfare, health, peace, morals, or safety of the community.

This section does not apply to a permit issued to a fraternal or veterans' organization or the holder of a food and beverage certificate.

Place or Manner Defined

[16TAC §35.31]

Behavior that may be criminal in nature or detrimental to the general welfare, health or safety of the public that relates directly to the licensed premises is operated but is not specified in the TABC Code fall under Place or Manner violations. Some examples—include excessive noise level, gambling, and prostitution, which shall be determined under the Texas Penal Code.

Grounds for Cancellation and Suspension or Grounds to Deny a license or a permit: *“the licensee or permittee conducted his business in a place or manner which warrants the cancellation or suspension of the license based on the general welfare, health, peace, morals, safety, and sense of decency of the people.”*

Any of the following offenses are regarded as “place and manner violations” and are grounds to suspend, cancel or deny permits and licenses. Civil notices or criminal citations must have been issued or arrests made. The offense must be shown to have been committed on a premise by a retailer, an applicant or by a person permitted to be on the premises if the retailer or applicant knew or should have known that such offense was occurring on the premise:

1. The preparatory offenses of: criminal intent, criminal conspiracy and criminal solicitation as defined in Chapter 15 of the Texas Penal Code;
2. Any assaultive offenses including but not limited to: assault, sexual assault, aggravated assault, aggravated sexual assault, injury to a child, elderly or disabled individual, abandoning or endangering a child, deadly conduct, terroristic threat, tampering with consumer product, as defined in Chapter 22 of the Texas Penal Code;
3. Theft offenses as defined in Chapter 31 of the Texas Penal Code;

4. Offenses that are subject to Subchapter D. Place and Manner, Offenses against the General Welfare [Section 35.31(c) TABC Administrative Rules]. The offenses that are subject to this rule are as follows:
 - (1) any preparatory offense described in Chapter 15 of the Texas Penal Code;
 - (2) any homicide offense described in Chapter 19 of the Texas Penal Code;
 - (3) any sexual offense described in Chapter 21 of the Texas Penal Code;
 - (4) any assaultive offense described in Chapter 22 of the Texas Penal Code;
 - (5) any arson, criminal mischief or property damage or destruction offense described in Chapter 28 of the Texas Penal Code;
 - (6) any theft offense described in Chapter 31 of the Texas Penal Code;
 - (7) any fraud offense described in Chapter 32 of the Texas Penal Code;
 - (8) any money laundering offense described in Chapter 34 of the Texas Penal Code;
 - (9) any bribery offense described in Chapter 36 of the Texas Penal Code;
 - (10) any obstruction offense described in Chapter 38 of the Texas Penal Code;
 - (11) any disorderly conduct or related offenses described in Chapter 42 of the Texas Penal Code;
 - (12) any public indecency offense described in Chapter 43 of the Texas Penal Code;
 - (13) any weapons offense described in Chapter 46 of

the Texas Penal Code;

(14) any gambling offense as described in Chapter 47 of the Texas Penal Code;

(15) any narcotics related offense described in Chapters 481 and 483 of the Texas Health and Safety Code;

(16) any law, regulation or ordinance of the federal government or of the country or municipality in which the licensed premises is located, violation of which is detrimental to the general welfare, health, peace and safety of the people.

The above list is not inclusive of all offenses which may be considered place and manner violations.

Common Nuisance

[Chapter 81 AB Code]

This chapter applies to on-premises retailers who don't hold a food and beverage certificate.

TABC may deny an application for a license or permit if a common nuisance existed on the premises in the last 12 months, even if the applicant did not control the premises at the time.

TABC may cancel or suspend a license or permit if the licensee/permittee maintains, or allows others to maintain, a public nuisance on the premises.

TABC, after notice and hearing, may impose additional

conditions to abate a common nuisance on the licensed premises. Violating these special conditions is grounds for cancellation or suspension.

TABC or a judge may impose similar orders while a contested case is pending before the administrative law judge, after notice and hearing.

Other Administrative Violations

Seating Required

[Sections 25.11 and 69.14 AB Code]

A wine and beer retailer's permittee and a retail dealer's on-premise licensee must have an area designated on the premises for the customers to sit if they wish to consume beverages sold on the premises.

Public Interest Information Sign

[Section 5.53 and 16TAC §31.4]

Any retailer in the state which sells or serves alcoholic beverages to consumers must display at the business in a prominent place easily seen by the public, i.e. near the door or by the cash register, a sign that provides the following information:

If you have a complaint about the sale or service of alcoholic beverages in this establishment, please contact the Texas Alcoholic Beverage Commission, P. O. Box 13127, Austin, Texas 78711-3127, or phone (512) 206-3333.

This sign must be no smaller than 6 inches by 3-1/2 inches and in lettering or type of a size sufficient to render it both conspicuous and readily legible. The sign must be made of sturdy material; paper weight of no less than 65# stock.

Consumption Warning Sign

[Sections 26.05 and 71.10 AB Code]

Each holder of a wine and beer retailer's off-premise permit or a retail dealer's off-premise license is required to display in a prominent place on the premises a sign stating in letters at least two inches high:

***IT IS A CRIME (MISDEMEANOR) TO CONSUME
LIQUOR OR BEER ON THESE PREMISES.***

The Commission may require the holder to also display the sign in a language other than English if determined that a substantial portion of the expected customers speak another language as their day-to-day language. A permittee who fails to post this sign commits a misdemeanor punishable by a fine of not more than \$25.

Health Risk Warning Sign

[Section 11.042 AB Code]

Each holder of a permit authorizing the sale of alcoholic beverages for on-premises consumption is required to display a warning sign in all public restrooms that informs the public of the risks of drinking alcohol during pregnancy.

HEALTH RISK WARNING SIGN

- *Drinking any type of alcohol while pregnant can hurt your baby's brain, heart, kidneys, and other organs and can cause birth defects.*
- *The safest choice is not to drink at all when you are pregnant or trying to become pregnant.*
- *If you might be pregnant, think before you drink.*

The health risk warning sign must:

1. be posted at each egress of all public restrooms on the licensed premises;
2. be placed at a level where the sign can be easily seen by persons exiting the restroom;
3. be not less than 8 1/2 x 11 inches in size.

Human Trafficking Hotline Number Sign

[Section 104.07 AB Code]

Certain licensed premises are required to post a national human trafficking hotline number in English and Spanish if they don't hold a food and beverage certificate: Beer on- or off-premises; beer/wine on- or off-premises; mixed beverage, all types of private clubs, excursion boats and railroad cars.

WARNING: *Obtaining forced labor or services is a crime under Texas law. Call the national human trafficking hotline: 1-888-373-7888. You may remain anonymous.*

The sign must be at least 8-1/2 inches high and 11 inches wide and displayed in a conspicuous manner clearly visible to the public and employees of the permit or license holder. The English notice must cover approximately two-thirds of the sign, and the Spanish notice must cover approximately one-third of the sign.

Weapons Warning Sign

[Sections 11.041 and 61.11 AB Code]

Mixed beverage permittees, private club registration permittees, wine and beer retailer's permittees, brewpub licensees and beer retailer's on-premise licensees who derive 51% or more of their income from the sale of alcoholic beverages and do not hold a food and beverage certificate must prominently display a sign that gives notice that it is unlawful for a person to carry a handgun on the premises, even if the person is licensed under the license to carry handgun law.

The sign must be at least 6 inches high and 14 inches wide, must appear in contrasting colors with block letters at least one inch in height and must include on its face the number "51" printed in solid RED at least five inches in height. The Commission may require the holder of the permit to also display the sign in a language other than English.

NOTICE: It is unlawful for a person to carry a handgun on this premise, including a person licensed under Subchapter H, CH. 411, Government Code.

Each off-premise retailer and other on-premise retail licensees and permittees not listed in the above paragraph are required to display a BLUE sign in a prominent place on the premises, which is clearly visible to the public giving notice that it is unlawful for a person to carry a weapon on the premises unless the person is licensed to carry the weapon under the license to carry law.

The sign must be at least 6 inches high and 14 inches wide and in contrasting colors. The Commission may require the holder of the license to also display the sign in a language other than English.

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

INFORMATION NEEDED FOR ADMINISTRATIVE ACTION

The following Administrative Case Checklists will assist TABC officials in the filling of the most common types of administrative violations. These checklists are meant to assist law enforcement in writing and subsequently submitting their offense reports to TABC. Please contact your local TABC office when an offense report is available.

Common Elements for Any Case

In filing any case with the Commission for administrative action, include the following information:

1. Date and time of offense.
2. Location (correct address, trade name, license/permit number – should be posted in accessible area).
3. Reason for being at licensed premises:
 - a. Routine inspection.
 - b. In response to complaint.
 - c. Surveillance.
 - d. Passing while on patrol.
4. Primary observations:
 - a. What caught your attention and why?
 - b. Exact position of the permittee, licensee, or person in charge and any employees on the premises in relation to the violation.
 - c. Exact location where the violation occurred on the premises.
 - d. Number of persons present during the violation.
 - e. Were the premises dark or well lighted?
 - f. What were the actions of the licensee, permittee, or employees? Were they observing or participating in the violation?
5. Identities:

- a. Positive identification of the permittee, licensee, or person in charge of the licensed premises and any other employees involved. (The TABC requests social security numbers, I-TIN, MRIV and RA numbers of these people to determine if the permittee's or licensee's liability may be limited because the employee was seller trained. All of the TABC seller training records are accessed and verified by personal identification numbers.)
 - b. Positive identification of all persons involved in the violation.
 - c. Positive ID of witnesses to the violation.
6. Statements: Any statements made by permittee, licensee or other persons involved in the violation.
7. Evidence:
- a. Note any seizure and disposition of alcoholic beverages.
 - b. Include photos, videos, audio recordings from interviews.
 - c. Proof of sale (e.g. receipts, credit card records, video, etc.)
8. Disposition of persons involved:
- a. Identity of arrested persons and charges filed.
 - b. Identity of persons receiving citations.

Administrative Checklist for Violations Involving Minors

In addition to the items listed under “Common Elements” above, please provide TABC with the following information:

Sale to Minor

[Sections 11.61(b)(2), 61.71(a)(5), 106.03 AB Code]

1. Observance of interaction between the minor and alleged seller.
2. Observance of the sales transaction: If applicable, indication that the transaction was clearly visible by the officer. When, where, what happened, description of the seller, description of the buyer, money exchanged. Was identification asked for and/or shown?
3. Description of the item purchased and verification that it is an alcoholic beverage (sight, smell, taste, labeling, etc.)
4. Proof that a sale took place (exchange of money, receipts, credit card records, surveillance video, etc.)
5. Description of the minor: List characteristics regarding the minor to show why one minor should not have been mistaken for a person 21 years of age or older. Criminal negligence must be proven in order to sustain a violation. For this reason, a thorough description of

the minor is necessary to show why the minor should not have been mistaken for a person 21 years of age or older. Note items such as the minor's attire, hair style, lack of facial hair or physical development, braces, etc.

6. Search of the minor and surrounding area for false or altered identification. Look for bands or markings on the minor's person which may indicate age categorization by the licensee.
7. Res gestae statements of the minor and answers to any questions asked.
8. Disposition of the minor: Was the minor issued a citation or arrested? Attach a copy of the citation and other relevant documentation to the case report.
9. Identity of the alleged seller: How was the seller identified? Include the seller's name, address, phone number, driver's license or identification card number, date of birth, employment status, and social security number.

NOTE: It is essential that the alleged seller's personal identification number is obtained. This information is needed to confirm seller-server training status and in order to obtain a final disposition for the administrative case.

10. Res gestae statements made by alleged seller and answers to any questions asked.

11. Disposition of the seller: Was the seller issued a citation or arrested? Attach a copy of the citation and other relevant documentation to the case report.
12. Determine if all elements exist for a restrained case:
 - Has the alleged seller attended a commission approved seller-server training program?
 - Are all management personnel and employees who are responsible for the sale, service, or delivery of alcoholic beverages required to attend a seller-server training program within 30 days of their initial employment?
 - Did the licensee directly or indirectly encourage employees to sell to minors?
13. Disposition of the alcoholic beverages: If a seizure is made, attach a copy of the seizure report to the case. Also indicate where the seized evidence is being stored. If a beverage is destroyed at the scene of the offense, be sure to note this in the case report.
14. If possible, photograph the minor at the time of the offense and include the picture with the case report as evidence of criminal negligence.
15. If applicable, attach witness statements to the case report including phone numbers and addresses.

This format may also be used for the service, delivery, or dispensing of alcoholic beverages to a minor.

Minor Sting Operations:

If you conduct a minor sting operation and would like the TABC to adopt the case, the following standards apply:

- Minors must be 18 or younger and look it
- Minor must use a valid photo DL or ID
- Please provide a recording of the transaction if available
- Include a copy of the minor's ID with case file.
- Ensure personal information on minor is correct and include contact information in case the issue goes to hearing
- Dispositions of seller, minor, and alcoholic beverages

Permit Minor to Possess / Consume an Alcoholic Beverage

[Sections 106.04, 106.05, and 106.13 AB Code]

1. Observance of the minor on the licensed premises possessing or consuming what appears to be an alcoholic beverage.
2. Description of the minor: List characteristics regarding the minor to show why the minor should not have been mistaken for a person 21 years of age or older. Criminal negligence must be proven in order to sustain a violation. Note items such as the minor's attire, hair style, lack of facial hair or physical development, braces, etc.
3. Describe where the licensee is located in relation to the

minor. Observance of the licensee permitting the minor to possess or consume an alcoholic beverage. Show that the licensee either saw the minor possessing or consuming the beverage, or was in a position to see same.

4. Identity of the minor: What identification was shown to the officer? Was this identification used in order to obtain an alcoholic beverage from the licensee and does it match the minor's appearance? How is the minor's age confirmed (driver's license, identification card, etc.) Minor's name, address, date of birth, and phone number.
5. Search of minor and surrounding area for false or altered identification. Look for bands or markings on the minor's person which may indicate age categorization by the licensee.
6. Res gestae statements of the minor and answers to any questions asked.
7. Examination of the alcoholic beverage that was possessed or consumed by the minor in order to verify its contents (sight, smell, taste, labeling, etc.).
8. Disposition of the minor: Was the minor issued a citation or arrested? Attach a copy of the citation and other relevant documentation to the case report.

9. Res gestae statements of the minor and answers to any questions asked.
10. Identity of the licensee: How was the licensee identified? Include the licensee's name, address, phone number, driver's license or identification card number, date of birth, employment status, and social security number.

NOTE: It is essential that the licensee's personal identification number is obtained. This information is needed to confirm seller-server training status and in order to obtain a final disposition for the administrative case.

11. Res gestae statements of the licensee and answers to any questions asked.

Employment of Minors

[Sections 11.61(b)(2), 61.71(a)(12), and 106.09 AB Code]

NOTE: A minor may be employed to operate the cash register for an "on-premises" permittee/licensee if they also hold a "Food & Beverage" permit/license.

12. Observance of minor handling alcoholic beverages: This may include the minor actually selling, serving, stocking, or preparing alcoholic beverages, or assisting in doing so.

13. Observance of the licensee permitting the minor to assist in handling alcoholic beverages. Be sure to provide a thorough description which vividly portrays the licensee's knowledge of the minor handling alcoholic beverages.
14. Identity of the minor: What identification was shown to the officer? Was this identification used in order to obtain employment and does it match the minor's appearance? How is the minor's age confirmed (driver's license, identification card, etc.)? Minor's name, address, date of birth, and phone number.
15. Res gestae statements of the minor and answers to any questions asked.
16. Description of the item handled by the minor and confirmation of its status as an alcoholic beverage (sight, smell, taste, labeling, etc.).
17. Identity of the licensee: How was the licensee identified? Include the licensee's name, address, phone number, driver's license or identification card number, date of birth, employment status, and social security number.
18. Res gestae statements of the licensee and answers to any questions asked.
19. Proof that the minor was employed by the licensee

at the time in question. This can be accomplished by obtaining an employment application, payroll records, etc.

20. In order to establish negligence by the licensee, attempt to show that the minor did not present false or altered identification to gain employment.
21. Disposition of the minor: Was the minor issued a citation or arrested? Attach a copy of the citation and other relevant documentation to the case report. Note in the case report if no criminal action was taken.
22. Disposition of the licensee: Was the licensee issued a citation or arrested? Attach a copy of the citation and other relevant documentation to the case report. Note in the case report if no criminal action was taken.
23. Disposition of the alcoholic beverages: If a seizure is made, attach a copy of the seizure report to the case. Also indicate where the seized evidence is being stored. If a beverage is destroyed at the scene of the offense, be sure to note this in the case report.
24. If possible, photograph the minor at the time of the offense and include the picture with the case report as possible evidence of criminal negligence.
25. If applicable, attach witness statements to the case report including phone numbers and addresses.

Administrative Checklist for Intoxication Offenses

In addition to the items listed under “Common Elements” above, please provide TABC with the following information:

Sale to Intoxicated Person

[Sections 11.61(14) and 61.71(a)(6) for administrative cases; and 101.63 for criminal cases AB Code]

1. Observance of the intoxicated person: What initially caused you to focus on the intoxicated person? Describe where the individual is located on the premises. Note intoxicating characteristics such as slurred or incoherent speech, loss of balance, glazed expression, etc.

NOTE: Evidence must indicate that the licensee/permittee, sold, served, or delivered an alcoholic beverage to the intoxicated individual for administrative cases. Evidence must indicate that the licensee/permittee with criminal negligence, sold, served, or delivered an alcoholic beverage to the intoxicated individual for criminal cases. The case report must depict how the licensee/permittee should have known the individual was intoxicated prior to selling the person the alcoholic beverage.

2. Observance of the licensee/permittee selling an alcoholic beverage to the intoxicated individual.

Describe the transaction that took place between the licensee/permittee and the intoxicated individual.

3. Examination of the alcoholic beverage that was transferred to the intoxicated individual in order to verify its contents (sight, smell, taste, labeling, etc.).
4. Identity of the intoxicated individual: Including name, address, phone number, driver's license or identification card number, date of birth, and social security number.
5. Res gestae statements of the intoxicated individual and answers to any questions asked.
6. Field sobriety tasks: It is important to perform sobriety tasks in order to confirm that the individual is intoxicated. Provide a detailed explanation if sobriety tasks cannot be performed.
7. Identity of the licensee/permittee: How was the licensee/permittee identified? Include the licensee's/permittee's name, address, phone number, driver's license or identification card number, date of birth, employment status, and personal identification number.

NOTE: It is essential that the licensee's/permittee's personal identification number is obtained. This information is needed to confirm seller-server training status and in order to obtain a final disposition for the administrative case.

8. Res gestae statements made by the licensee/permittee and answers to any questions asked.
9. Disposition of the licensee/permittee: Was the licensee/permittee issued a citation or arrested? Attach a copy of the citation and other relevant documentation the case report.
10. Determine if all elements exist for a restrained case:
 - Has the alleged seller attended a commission approved seller-server training program?
 - Are all management personnel and employees who are responsible for the sale, service, or delivery of alcoholic beverages required to attend a seller-server training program within 30 days of their initial employment?
 - Did the licensee/permittee directly or indirectly encourage employees to sell to intoxicated individuals? If so, how?
11. Disposition of the intoxicated individual: Was the individual arrested, taken to a detoxification center, or released to a responsible party? Attach a copy of the citation and other relevant documentation to the case report. Note in the case report if no criminal action was taken and why.
12. Disposition of the alcoholic beverages: If a seizure is made, attach a copy of the seizure report to the case. Also indicate where the seized evidence is being

stored. If a beverage is destroyed at the scene of the offense, be sure to note this in the case report.

13. If applicable, attach witness statements to the case report including phone numbers and addresses.

This format may also be used for the service, delivery, or dispensing of alcoholic beverages to an intoxicated individual.

Permittee or Licensee Intoxicated on the Licensed Premises

[Sections 11.61(b)(13) and 104.01(5) AB Code]

1. Observance of the intoxicated licensee/permittee:
What initially caused you to focus on the individual?
Describe where the licensee is located on the premises.
Note intoxicating characteristics such as slurred or incoherent speech, loss of balance, glazed expression, etc. Was the licensee/permittee in possession of an alcoholic beverage? If the licensee/permittee is recognized based on previous contacts, note this in the case report. Also note the licensee's/permittee's demeanor while intoxicated as opposed to the demeanor that was observed during previous contacts.
2. Identity of the licensee/permittee: How was the licensee/permittee identified? Include the licensee's/permittee's name, address, phone number, driver's

license or identification card number, date of birth, employment status, and social security number.

3. Proof that the individual was employed as a licensee/permittee at the time in question. This can be accomplished by obtaining an employment application, payroll records, TABC records, etc. Remember that "licensee" and "permittee" mean any agent, servant, or employee of that person or a person who is the holder of a license/permit provided in this Code.
4. Res gestae statements made by the licensee /permittee and answers to any questions asked.
5. Field sobriety tasks: It is important to perform sobriety tasks in order to confirm that the licensee is intoxicated. Provide a detailed explanation if sobriety tasks cannot be performed.
6. Disposition of the intoxicated licensee/permittee: Was the licensee/permittee arrested, taken to a detoxification center, or released to a responsible party? Attach a copy of the citation and other relevant documentation to the case report. Note in the case report if no criminal action was taken and why.
7. If applicable, attach witness statements to the case report including phone numbers and addresses.

On-Premise Promotions

TABC Rule 45.103 Prohibits on-premise retailers from practices that result in excessive consumption of alcoholic beverages if they constitute manner of operation contrary to: public welfare, health and safety.

The standard for “Excessive Consumption” is Public Intoxication (49.02, Texas Penal Code). If officers handle several PI arrests at an on-premise location in a single episode, the TABC will review the promotional activities and standard serving practices to determine whether to file an Administrative Case. The goal is to stop or prevent more serious intoxication offenses that are generated by the licensed or permitted premises.

Source Investigations

A source investigation attempts to identify the source of the alcoholic beverages consumed by persons who are involved in a serious accident or collision, a DWI/BWI/DUI violation, or an assaultive violation directly related to level of intoxication. The source investigation attempts to determine if the source of the alcoholic beverages acted within the law when they provided the alcoholic beverages to the intoxicated person.

If the alcoholic beverages were sold or delivered illegally, the TABC commissioned peace officer will prepare and file appropriate criminal and administrative charges against the provider of the alcoholic beverages.

If there is an alcohol-related fatality or serious injury in your area please, contact you local TABC office so that we can work together to address the total incident and to prevent future incidents from the particular source.

Some issues to consider when working alcohol-related incidents that could result in a TABC Source investigation:

Potential charges under the alcoholic beverage code:

- Sale to intoxicated person(s)
- Sale to minor
- Making alcoholic beverage available to a minor
- Permitting minor to possess/consume alcoholic beverage
- Permittee/licensee intoxicated on the licensed premises
- Sale or permitting consumption during prohibited hours
- Place or Manner of Operation: On-Premise Promotion
- Breach of the Peace
- Place or Manner of Operation: other criminal offense

First responding agency reports are vital. A complete list of witnesses and involved parties is critical along with their statements and contact information.

Administrative Checklist for Prohibited Hours Violations

[Sections 24.07, 61.71(a)(7), 105.01-105.05 AB Code]

In addition to the items listed under “Common Elements” above, please provide TABC with the following information:

If permittees/licensees are operating outside the legal hours of sale and consumption, then it is likely that they are allowing or participating in other public safety violations (e.g. prostitution, trafficking of persons, narcotics offenses, intoxication offenses, assaultive offenses, sexual assaults, etc.). The results are annoyance and hazards to the public we serve and annoyance and hazards to the officers who handle the area.

Legal Hours of Sale – On-Premise Retail Locations (bars, nightclubs, restaurants – some locations may be able to sell for off-premise consumption (to go) during Standard Hours – check the table of permits and licenses):

Standard Hours (depends on size or local ordinance):

Monday through Saturday	7:00 a.m. - midnight
Sunday (Saturday Night)	midnight - 1:00 a.m.
Sunday ***	noon - midnight

Extended Hours (depends on size or local ordinance and whether they have a late hours permit):

Monday through Saturday	7:00 a.m. - 2:00 a.m.
Sunday ***	noon - 2:00 a.m.

*** 10:00 a.m. with the service of food or at a festival, fair, concert or Sports Venue

Legal Hours of Sale – Off-Premise Retail Locations (sale to go) locations (e.g. convenience stores, grocery stores,

truck stops – some have a type of on-premise permit – if they do, there should be tables for consumers):

Monday through Saturday	7:00 a.m. - midnight
Sunday (Saturday Night)	midnight - 1:00 am
Sunday	noon - midnight

Legal Hours of Sale – Package Stores (Liquor Stores)
10:00 a.m. to 9:00 p.m. Monday through Saturday

Closed: Sunday, New Year's Day, Thanksgiving, and Christmas Day. If Christmas or New Year's Day falls on a Sunday, closed the following Monday.

If a customer has entered a package store during hours in which the package store may sell alcohol and is still in the store at the time the hours of legal sale end, the permittee may allow the customer to remain in the store for a reasonable amount of time to finish shopping, and the permittee may sell an alcoholic beverage to that customer even though the sale occurs after the designated end of the hours of legal sale. [Section 22.17 AB Code]

Legal Hours of Sale & Consumption – Brewery
Monday through Saturday 8:00 a.m. – midnight
Sunday 10:00 a.m. – midnight

Legal Hours of Sale & Consumption – Winery
Monday through Saturday 8:00 a.m. – midnight
Sunday 10:00 a.m. – midnight
New Year's Day midnight – 2:00 a.m.

Legal Hours of Sale - Distillery for On-Premise Consumption (same as Mixed Beverage Permit)

Monday through Saturday	7:00 a.m. - midnight
Sunday (Saturday Night)	midnight - 1:00 a.m.
Sunday ***	noon - midnight

**** 10:00 am to noon on Sunday with the service of food*

Legal Hours of Sale - Distillery for Off-Premise Consumption (same as a Package Store Permit)

10:00 a.m. to 9:00 p.m. Monday through Saturday

No Off-Premise Sales at Distillery: Sunday, New Year's Day, Thanksgiving, Christmas Day. If Christmas or New Year's Day falls on a Sunday, no off-premise sales on the following Monday.

Legal Hours of Public Consumption

[Section 105.06 AB Code]

Standard Hours (depends on size or local ordinance):

Monday through Saturday	7:00 a.m. - 12:15 a.m.
Sunday (Saturday Night)	midnight - 1:15 a.m.
Sunday ***	noon - 12:15 a.m.

Extended Hours (depends on size or local ordinance):

Monday through Saturday	7:00 a.m. - 2:15 a.m.
Sunday ***	noon - 2:15 a.m.

**** 10:00 a.m. with the service of food or at a festival, fair or concert or Sports Venue*

In addition to the individual criminal violation of Consuming Alcoholic Beverage during Prohibited Hours, there are several violations that have an Administrative nexus – they involve the behavior of permittees/licensees.

Sale during Prohibited Hours

[Sections 24.07, 61.71(a)(7), 105.01-105.05 AB Code]

1. Determine whether or not the establishment has a late hours license or permit and indicate so on your report.
2. Observance of the sales transaction: Exact time of the sale according to the officer's watch or clock. Describe the purchaser and the licensee/permittee. Describe the sales transaction that is viewed, including the transfer of money and alcoholic beverages. Observe the time displayed on the cash register, the establishment's clock, or the licensee's/permittee's watch.

NOTE: A minimum of fifteen minutes beyond the legal hour of sale is recommended in order to sustain a case. Example: If an establishment may legally sell alcoholic beverages until 2:00 a.m., a case should not be filed for sales occurring prior to 2:15 a.m.

3. Identity of the purchaser: Including name, address, phone number, driver's license or identification card number, date of birth, and social security number.
4. Res gestae statements of the purchaser and answers to any questions asked.

5. Examination of the alcoholic beverage that was transferred to the purchaser in order to verify its contents (sight, smell, taste, labeling, etc.).
6. Disposition of the purchaser: Was the purchaser arrested or issued a citation? Attach a copy of the citation and other relevant documentation to the case report. Note in the case report if no criminal action was taken.
7. Identity of the licensee/permittee: How was the licensee/permittee identified? Include the licensee's/permittee's name, address, phone number, driver's license or identification card number, date of birth, employment status, and social security number.
8. Res gestae statements of the licensee and answers to any questions asked.
9. Disposition of the licensee/permittee: Was the licensee arrested or issued a citation? Attach a copy of the citation and other relevant documentation to the case report. Note in the case report if no criminal action was taken.
10. Disposition of the alcoholic beverages: If a seizure is made, attach a copy of the seizure report to the case. Also indicate where the seized evidence is being stored. If a beverage is destroyed at the scene of the offense, be sure to note this in the case report.

11. If applicable, attach witness statements to the case report including phone numbers and addresses.

Permitting Consumption of Alcoholic Beverages on Licensed Premises during Prohibited Hours

[Sections 11.61(b)(7)(22), 32. 17(a)(7), 61.71(a)(18), 105.06 AB Code]

1. Observance of the consumption: Note the exact time according to the officer's watch or clock. Describe the beverage in the consumer's possession and indicate that a portion of the beverage was actually swallowed. List where the consumer is located on the licensed premises.
2. Describe where the licensee/permittee is located in relation to the consumer. Observance of the licensee/permittee permitting the consumption. Show that the licensee/permittee either saw the individual consuming the beverage, or was in a position to see the same.

NOTE: Prima facie evidence of permitting consumption exists if the licensee/permittee is consuming alcoholic beverages during prohibited hours on the licensed premises.

3. Identity of the consumer: Including name, address, phone number, driver's license or identification card number, date of birth, and social security number.
4. Res gestae statements of the consumer and answers to any questions asked.

5. Examination of the alcoholic beverage that is possessed by the consumer in order to verify its contents (sight, smell, taste, labeling, etc.).
6. Disposition of the consumer: Was the consumer arrested or issued a citation? Attach a copy of the citation and other relevant documentation to the case report. Note in the case report if no criminal action was taken.
7. Identity of the licensee/permittee: How was the licensee/permittee identified? Include the licensee's/permittee's name, address, phone number, driver's license or identification card number, date of birth, employment status, and social security number.
8. Res gestae statements of the licensee and answers to any questions asked.
9. Disposition of the licensee/permittee: Was the licensee arrested or issued a citation? Attach a copy of the citation and other relevant documentation to the case report. Note in the case report if no criminal action was taken.
10. Disposition of the alcoholic beverages: If a seizure is made, attach a copy of the seizure report to the case. Also indicate where the seized evidence is being stored. If a beverage is destroyed at the scene of the offense, be sure to note this in the case report.

11. If applicable, attach witness statements to the case report including phone numbers and addresses.

* A mixed beverage permittee who permits consumption during prohibited hours can be filed on administratively under section 11.61(b)(7) or 11.61 (b)(22) of the Code and criminally under 1105.03 of the Code.

Administrative Checklist for Permitting Lewd Conduct or Indecent Exposure

[Sections 61.71(a)(11) and 104.01(2)(7)* AB Code]

In addition to the items listed under “Common Elements” above, please provide TABC with the following information:

1. Observance of an individual performing a lewd act or exposing their person.

Lewd act: Describe the lewd act in detail. Refer to chapter 21 of the Texas Penal Code for actions that constitute public lewdness.

Indecent exposure: Provide a detailed description of the activity that constitutes indecent exposure. Refer to section 21.08 or 42.01(a)(10) of the Texas Penal Code.

2. Describe where the licensee/permittee is located in relation to the act of lewdness or exposure. Show that

the licensee/permittee saw either the lewd conduct or exposure, or was in a position to see the same.

NOTE: Prima facie evidence of permitting lewd conduct or indecent exposure exists if the licensee is a participant in either of the offenses.

3. Identity of the licensee/permittee: How was the licensee identified? Include the licensee's/permittee's name, address, phone number, driver's license or identification card number, date of birth, employment status, and social security number.
4. Res gestae statements of the licensee/permittee and answers to any questions asked.
5. Disposition of the licensee/permittee: Was the licensee/permittee arrested or issued a citation? Attach a copy of the citation and other relevant documentation to the case report. Note in the case report if no criminal action was taken.
6. Identity of other individuals involved: Including name, address, phone number, driver's license or identification card number, date of birth, and social security number.
7. Res gestae statements of others involved and answers to any questions asked.

8. Disposition of others involved: Were other individuals arrested or issued a citation? Attach a copy of citations and other relevant documentation to the case report. Note in the case report if no criminal action was taken.
 9. If applicable, attach witness statements to the case report including phone numbers and addresses.
- * Should the offense committed violate chapter 21 or 43 of the Texas Penal Code, both criminal and administrative charges can be pursued.

Administrative Checklist for Possession of Narcotics on the Licensed Premises

[Section 104.01(9) AB Code]

In addition to the items listed under “Common Elements” above, please provide TABC with the following information:

The Texas Alcoholic Beverage Code gives peace officers the authority to enter a licensed premise to conduct investigations or inspect the premises for the purpose of performing any duty imposed by the Code.

Section 104.01(9): No person authorized to sell beer at retail, nor the person's agent, servant, or employee, may engage in or permit conduct on the premises of the retailer which is lewd, immoral, or offensive to public decency, including, but not limited to, any of the following acts:

(9) possession of a narcotic or any equipment used or designed for the administering of a narcotic or permitting a person on the licensed premises to do so.

In addition to the normal criminal elements for possession or sale of drugs, please consider the following:

- Permittee/Licensee
 - possesses
 - sells
 - allows another to possess
 - allows another to sell
- Illicit Drugs and/or related equipment
- On the licensed premises

Demonstrate that permittees/licensees were in a position to observe/allow the activity and/or demonstrate direct involvement in the activity by permittees/licensees.

1. Finding what appears to be narcotics or narcotic paraphernalia on the licensed premises. Indicate the exact location on the premises where the apparent narcotics or paraphernalia was found.

NOTE: It is important to show that the licensee had care, custody, or control of the narcotics or paraphernalia based on its location on the premises. Factors such as public complaints may also serve as possible probable cause which would link a licensee to items found on the premises. A diagram of the premises indicating the exact location where the illicit materials were found will serve as a beneficial supplement to the case report.

2. Identity of the licensee/permittee: How was the licensee identified? Include the licensee's/permittee's name, address, phone number, driver's license or identification card number, date of birth, employment status, and social security number.
3. Res gestae statements of the licensee/permittee and answers to any questions asked.
4. Disposition of the licensee/permittee: Was the licensee/permittee arrested or issued a citation? Attach a copy of the citation and other relevant documentation to the case report. Note in the case report if no criminal action was taken.
5. Verification by field testing or other means that the substance in question is a narcotic.
6. Disposition of the narcotics or paraphernalia: Complete a seizure report and attach a copy of it to the case. Also indicate where the seized evidence is being stored for chain of custody purposes.
7. If applicable, attach witness statements to the case report including phone numbers and addresses.

It is important to emphasize that a search was not being conducted if narcotics or paraphernalia is found on a licensed premise during the course of an inspection. The Texas Alcoholic Beverage Code gives peace officers the authority to enter a licensed premise to conduct

investigations or inspect the premises for the purpose of performing any duty imposed by the Code.

One duty clearly imposed by the code is ensuring that a licensee does not possess, or permit the possession, of narcotics or narcotic paraphernalia on the licensed premises. A search warrant must be obtained in order to search licensed premises for items which do not involve a violation of the Code.

Example: A complainant states that stolen radios are stored on the licensed premises of Joe's Bar and Grill. Possession of stolen property does not constitute a violation of the Code. Therefore, a warrant must be obtained in order to search the premises for the stolen property.

Administrative Checklist for Breach of the Peace

[Sections: 22.12; 24.11; 28.11; 32.24; 69.13 AB Code]
(Package Store, Wine and Beer Retailer's, Mixed Beverage, Private Club, Retail Dealer's On-Premise License)

In addition to the items listed under "Common Elements" above, please provide TABC with the following information:

Typically when a breach of the peace (assaults, injuries, disturbances) occurs, it is the local patrol agency that first responds. The information may be further investigated by that agency and TABC. It is critical that the first responding agency gather as much information as possible.

The focus of the TABC investigation will be on whether/how the breach of the peace was addressed and on whether the actions or inactions of permittees/licensees contributed to the breach of the peace.

Elements necessary to show that a breach of the peace incident was “not beyond the control” of the permittees/licensees:

Permitting a Breach of the Peace on the Licensed Premises

[Sections 22.12, 24.11, 25.04(b), and 28.11 AB Code]

1. Illustrate that due to improper supervision of the premises, the licensee/permittee was permitting conduct that might result in a breach of the peace (inadequate staffing, overcrowding, over-service of alcoholic beverages, poor lighting, etc.).
2. List the exact place where the conduct occurred on the premises. Describe in chronological detail the acts that constituted a breach of the peace. When did staff observe the problem or potential problem, when did they act (if ever), when did the call for service occur (and from whom, etc.) This will help show whether staff should have been aware of the problem.
3. Show that the licensee/permittee either saw the conduct, or was in a position to see the conduct, but did nothing to prevent it.

4. Indicate whether the licensee/permittee attempted to prevent or stop the breach of the peace after it started.
5. Show that permittees/licensees failed to act or were part of the problem.

NOTE: Without an articulated threat, staff cannot legally grab someone any more than anyone else can. Some breaches occur because the management of the involved parties escalates the situation.

6. Indicate whether the licensee/permittee attempted to notify law enforcement officials in order to quell the breach, or to report that a breach had occurred. Determine the location of telephones on the licensed premises and if they are operable.
7. Identity of the licensee/permittee: How was the licensee/permittee identified? Include the licensee's/permittee's name, address, phone number, driver's license or identification card number, date of birth, employment status, and social security number.
8. Res gestae statements of the licensee/permittee and answers to any questions asked.
9. Disposition of the licensee/permittee: Was the licensee/permittee arrested or issued a citation? Attach a copy of the citation and other relevant documentation to the

case report. Note in the case report if no criminal action was taken.

10. Identity of witnesses: Include name, address, residential phone number, driver's license or identification card number, date of birth, place of employment and phone number.

NOTE: It is essential to obtain all possible witness information. Most breach occurrences are verified through eyewitness testimony which corroborates other information.

11. Draw a diagram of the premises which portrays where the acts constituting the breach occurred and the location of all telephones.
12. Photograph the crime scene and any individuals who were injured during the breach.
13. Obtain all relevant injury reports if persons involved in the breach required medical attention.
14. Obtain any additional reports filed with local law enforcement agencies and report to your local TABC office.

Administrative Checklist for Inspection Refusal / Interfering With Inspection

[Sections 32.17(2), 61.71(a)(14), 61.74(a)(7), and 101.04 AB Code]

In addition to the items listed under “Common Elements” above, please provide TABC with the following information:

1. Indicate how the officer's authority and presence were brought to the attention of the licensee/permittee. How did the officer request to enter and inspect the premises?
2. Show that the licensee/permittee was aware of the officer's presence, identity, and desire to inspect the premises. Was the licensee/permittee in a position to see and/or hear the officer's requests?
3. Observance that the licensee/permittee positively refused to permit the officer to inspect the premises, or interfered with an inspection being performed.
4. How was the officer able to gain entrance to the premises?
5. Identity of the licensee/permittee: How was the licensee identified? Include the licensee's/permittee's name, address, phone number, driver's license or identification card number, date of birth, employment status, and social security number.
6. Res gestae statements of the licensee/permittee and answers to any questions asked.

7. Disposition of the licensee/permittee: Was the licensee/permittee arrested or issued a citation? Attach a copy of the citation and other relevant documentation to the case report. Note in the case report if no criminal action was taken.
8. Explain that the officer was not able to conduct or complete an inspection of the premises because of the licensee/permittee interfering or refusing entrance.
9. If applicable, attach witness statements to the case report including phone numbers and addresses.

Trafficking of Persons

Texas Penal Code: Chapter 20A

National Hotline: 1-888-373-7888

If you encounter a case in which you suspect or may prove that human trafficking is taking place at a permitted or licensed premises, take the measures required by law and please include the TABC local field office in your contacts.

Some potential issues to consider:

- Workers exploited/forced labor
- Often involves Organized Crime
- Sex trade often involved – typically what we once considered criminal behavior (e.g. prostitution) may be forced/victim behavior
- May require victim assistance

The Role of TABC in Curbing Trafficking

- TABC is part of the Office of the Attorney General's Human Trafficking Prevention Task Force as well as regional task forces around the state.
- TABC has unique access to permitted or licensed locations and the owners/employees through inspections, interviews and requests for information.
- TABC has unique access to information on permit holders: financial records, bank accounts, tax records, ownership, landlord, lease agreements, employee information.
- The Public Inquiry database on TABC's website is a useful resource for law enforcement agencies: it contains permit information, location addresses, owners, violation history and complaint history.
- TABC can take Administrative Action against a permit/license including but not limited to: suspension or cancellation and refusal to renew, after an administrative hearing.
- Chapter 81 Common Nuisance: This chapter of the Alcoholic Beverage Code authorizes the placement of a Temporary Order pending a hearing. TABC may place restrictions on the permit based on reasonable likelihood that the nuisance will continue. The order is in place until all appeals are over following the hearing. This can be used to close a location almost immediately and indefinitely if the temporary order prohibits the sale or service of alcoholic beverages.

COMMON RETAIL ALCOHOLIC BEVERAGE PERMITS AND LICENSES

[Refer to Section 107 AB Code for additional information]

Introduction

The following is a list of types of retail alcoholic beverage licenses and permits which a peace officer may encounter:

On-premise consumption means the license or permit only allows the holder to sell or serve alcoholic beverages to be consumed on the premises and alcohol may not be taken off the licensed premises.

Off-premise consumption means the license or permit only allows the holder to sell alcoholic beverages to be consumed off the licensed premises (to go).

Some licenses and permits allow both types of sales and service. (On- and Off-premises)

Coin operated machines or similar devices are prohibited if operated by the consumer. [Section 51.09 AB Code]

Alcoholic beverage permit and license holders are required to display their license or permit in a conspicuous place on the premises.

In examining the document, notice that the permit or license number begins with a one or two letter alphabetical code, which identifies the type of establishment, followed by a

six digit number which identifies the specific permittee or licensee (example: MB222222). In submitting cases to the Commission, please include this permit or license number.

On- and Off-Premises Consumption Authorized

Retail Dealer's On-Premise License (Code BE):

- Authorizes the sale of beer.
- Minimum age of employee who can handle alcoholic beverages: 18 years of age.
- Hours of Sale:
7:00 a.m. - midnight on any day except Sunday.
Sunday: midnight to 1:00 a.m., noon to midnight, and 10:00 a.m. to noon if the beer is served to a customer during the service of food to the customer.
- Other activities (stocking, deliveries from suppliers, etc.) are allowed at other times based on the type of permit or license.
- May also hold a retail dealer's on-premise late hours license (code BL) which authorizes the holder to sell alcoholic beverages for consumption on the premises until 2:00 a.m.

Wine and Beer Retailer's Permit (Code BG):

- Authorizes the sale of: beer, ale, malt liquor, and either wine not over fourteen percent (14%) or wine not over

seventeen percent (17%). Also, sale of port or sherry for consumption on the premises.

- Minimum age of employee who can handle alcoholic beverages: 18 years of age.
- Hours of Sale:
7:00 a.m. - midnight on any day except Sunday.
Sunday: midnight to 1:00 a.m., noon to midnight
Between 10:00 a.m. and noon if the beer is served to a customer during the service of food to the customer.
- Other activities (stocking, deliveries from suppliers, etc.) are allowed at other times based on the type of permit or license.
- May also hold a retail dealer's on-premise late hours license (code BL) which authorizes the holder to sell alcoholic beverages for consumption on the premises until 2:00 a.m.

Brewpub License (Code BP):

- Authorizes the manufacture and sale of malt liquor, ale, and beer. A holder of a brewpub license must also hold a wine and beer retailer's permit (BG), a mixed beverage permit (MB), or a retail dealer's on-premise license (BE).
- Minimum age of employee who can handle alcoholic beverages: 18 years of age.
- Hours of Sale: See primary license/permit (BG, MB, or BE).

Off-Premises Consumption Only

Retail Dealer's Off-Premise License (Code BF):

- Authorizes the sale of beer.
- Age of employee who can handle alcoholic beverages: No minimum age.
- Hours of Sale:
Monday - Saturday: 7:00 a.m. to midnight;
Sunday: Midnight to 1:00 a.m., noon to midnight.
- Other activities (restocking, etc.) are allowed at other times based on the type of permit or license.

Wine and Beer Retailer's Off-Premise Permit (Code BQ):

- Authorizes the sale of beer, malt liquors, and either wine not over fourteen percent (14%) or wine not over seventeen percent (17%). Age of employee who can handle alcoholic beverages: No minimum age.
- Hours of Sale:
Monday - Saturday: 7:00 a.m. to midnight;
Sunday: Midnight to 1:00 a.m., noon to midnight
- Other activities (restocking, etc.) are allowed at other times based on the type of permit or license.

Package Store Permit (Code P):

- Authorizes the sale of spirits, malt liquor, and wine. A package store permittee may also hold a retail dealer's off-premise license (BF) to sell beer.
- Package store permit with beer off-premise license

(BF): Hours are the same as package store.

- Minimum age of employee who can handle alcoholic beverages: 21 years of age.
Exception: Does not apply to a person who is employed by the person's parent or legal guardian if the parent or legal guardian is the permittee.
- Hours of Sale:
Monday - Saturday, 10:00 a.m. to 9:00 p.m.
Closed on Sunday, Thanksgiving Day, Christmas Day, New Year's Day. If Christmas or New Year's Day fall on Sunday, closed following Monday.
- Other activities (restocking, etc.) are allowed at other times based on the type of permit or license.
- May sell non-alcoholic products and may conduct other lawful business on the premises of a package store, but the premises must be closed to entry by the general public during all hours in which the sale of liquor by a package store is prohibited by law. "The general public" means retail customers and does not include vendors, service personnel, and other persons entering the premises for purposes other than the purchase of goods sold on the premises.

NOTE: Traditionally TABC gives a package store up to an additional 15 minutes after 9:00 p.m. to finish ringing up customers who were in the store before 9:00 p.m.

Wine Only Package Store Permit (Code Q):

- Authorizes the sale of wine, ale, malt liquor.

May also hold a retail dealer's off-premise license (BF) to handle beer.

- Minimum age of employee who can handle alcoholic beverages: 16 years of age.
- Hours of Sale: Wine Only Package Store with Beer Off-Premise (BF):
Monday - Saturday: 7:00 a.m. to midnight.
Sunday: midnight to 1:00 a.m., noon to midnight.
Wine over 17% alcohol by volume may not be sold after 10:00 p.m. any day and can never be sold on Sunday.
- Other activities (restocking, etc.) are allowed at other times based on the type of permit or license.

On-Premises Consumption Only

Mixed Beverage Permit (Code MB):

- Authorizes the sale of all types of alcoholic beverages by the drink.
- Minimum age of employee who can handle alcoholic beverages: 18 years of age.
- Hours of Sale: 7:00 a.m. - midnight on any day except Sunday.
- Sunday: midnight - 1:00 a.m. and 10:00 a.m. - midnight,
- 10:00 a.m. to noon if the alcoholic beverage is served to a customer during the service of food to the customer.
- May also hold a mixed beverage late hours permit (LB) which authorizes a mixed beverage permittee to sell mixed beverages until 2:00 a.m.

- Other activities (restocking, etc.) are allowed at other times based on the type of permit or license.

Private Club Registration Permit (Code N):

- Authorizes the service only of all types of alcoholic beverages by the drink. Alcoholic beverages must belong to members of the club to be stored, possessed, and mixed on club premises, and served for on-premises consumption only to members, their families, and guests.
- Minimum age of employee who can handle alcoholic beverages: 18 years of age.
- Hours of Sale: 7:00 a.m. - midnight on any day except Sunday. Sunday: midnight - 1:00 a.m. and 10:00 a.m. - midnight, except that an alcoholic beverage served to a customer between 10:00 a.m. and noon on Sunday must be provided during the service of food to the customer.
- May also hold a Private Club Late Hours Permit (NL) which authorizes the holder to allow persons to consume or be served alcoholic beverages on club premises until 2:00 a.m.
- Other activities (restocking, etc.) are allowed at other times based on the type of permit or license.

MANUFACTURING TIER

Other Permits Authorized to sell direct to Consumers:

Winery Permit (Code G):

- Authorizes the selling of wine to the ultimate consumer for consumption on the winery premises or in unbroken packages for off-premise consumption.
- Minimum age of employee who can handle alcoholic beverages: 18 years of age.
- Hours of Sale: 8:00 a.m. - midnight on any day except Sunday.
- Sunday: 10:00 a.m. – midnight
- May also sell between midnight – 2:00 a.m. on New Year's Day.

Brewer's Permit (Code B):

- Authorizes the selling of ale and malt liquor to the ultimate consumer if the permittee's annual production is less than 225,000 barrels.
- They may only sell 5,000 barrels of beer and ale combined annually direct to consumers.
- Minimum age of employee who can handle alcoholic beverages: 18 years of age.
- Hours of Sale: 8:00 a.m. – midnight on any day except Sunday.
- Sunday: 10:00 a.m. – midnight

Manufacturer's License (Code BA):

- Authorizes the selling of beer to the ultimate consumer if the permittee's annual production is less than 225,000 barrels.
- They may only sell 5,000 barrels of beer annually direct to consumers.
- Minimum age of employee who can handle alcoholic beverages: 18 years of age.
- Hours of Sale: 8:00 a.m. – midnight on any day except Sunday.
- Sunday: 10:00 a.m. – midnight

Distiller's and Rectifier's Permit (D):

- Authorizes the holder to sell to the ultimate consumer for consumption on the permitted premises, for off-premises consumption in unbroken packages containing not more than 750 milliliters.
- May not sell more than two 750 milliliter bottles of distilled spirits or the equivalent to the same consumer within a 30-day period.
- Minimum age of employee who can handle alcoholic beverages: 18 years of age.
- Hours of Sale for On-Premise: Same as Mixed Beverage, except Distilleries are not given 15 extra minutes for patrons to consume after closing.
- Hours of Sale for Off-Premise Consumption: Same as Package Store.

APPENDIX I

TABC OFFICES IN TEXAS

AUSTIN HEADQUARTERS

PHYSICAL ADDRESS:

5806 Mesa Drive
Austin, Texas 78731
(512) 206-3333 (Information)
1-888-THE-TABC (Complaint)
Dial 711 to Reach TTY/TDD
(512) 206-3350 Fax

MAILING ADDRESS:

P.O. Box 13127
Austin, Texas 78711

REGION 1 - LUBBOCK

Lubbock Regional Office

**612 West Loop 289,
Suite 100**

**Lubbock, Texas 79416
(806) 793-3221
(806) 793-3222 Fax**

Amarillo

Palo Duro Office Plaza
3131 Bell, Suite 106
Amarillo, Texas 79106
(806) 353-1286 Ext 2886
(806) 353-1287 Fax

Abilene

Enterprise Tower
500 Chestnut Street,
Suite 1573
Abilene, Texas 79602
(325) 672-8111
(325) 670-9838 Fax

El Paso

El Paso State Office Building
401 East Franklin Avenue,
Suite 120
El Paso, Texas 79901
(915) 351-3697
(915) 351-2458 Fax

Fort Davis Outpost

103 Court Avenue
Fort Davis, Texas 79734
(432) 426-3623
(432) 426-3682 Fax

San Angelo

622 South Oakes, Suite P
San Angelo, Texas 76903
(325) 659-7931
(325) 659-7933 Fax

Odessa

6010 East Highway 191,
Suite 234
Odessa, Texas 79762
(432) 367-0760
(432) 367-0808 Fax

REGION 2 – ARLINGTON

Arlington Regional Office

2225 East Randol Mill,
Suite 200
Arlington, TX 76011
(817) 652-5912
(817) 607-2492 Fax

Denton Outpost

Denton County Building
121 North Woodrow Lane
Suite 101
Denton, TX 76205
(940) 349-2877
(940) 349-2879 Fax

Cleburne Outpost

1102 East Kilpatrick
Cleburne, Texas 76031
(817) 556-6058
(817) 202-9596 Fax

Greenville Outpost

Hunt County Criminal Justice
Center
2801 Stuart Street
Greenville, Texas 75401
(903) 453-6884
(903) 453-6886 Fax

Longview Outpost

2800 Gilmer Road, Suite 4
Longview, Texas 75604-1824
(903) 759-7828
(903) 759-7834 Fax

McKinney

825 North McDonald,
Suite 180
McKinney, Texas 75069
(972) 547-5099
(972) 547-5093 Fax

Mineral Wells Outpost

109 North Oak
Mineral Wells, TX 76067
(940) 325-9372
(940) 325-1834 Fax

Sherman Outpost

Grayson County Courthouse
100 West Houston Street,
Third Floor
Sherman, Texas 75090
(903) 813-4256
(903) 898-2629 Fax

Tyler

3800 Paluxy Drive, Suite 501
Tyler, Texas 75703-1666
(903) 939-0481
(903) 939-0485 Fax

Wichita Falls

624 Indiana Street, Suite 300
Wichita Falls, Texas 76301
(940) 322-8606 Ext 2786
(940) 322-8607 Fax

REGION 3 – HOUSTON

Houston Regional Office

**427 West 20th Street,
Suite 600
Houston, Texas 77008-2497
(713) 426-7900
(713) 426-7979 Fax**

Beaumont

3535 Calder Avenue, Suite 238
Beaumont, Texas 77705
(409) 838-9040
(409) 832-0851 Fax

Brazoria Outpost

202 South Main Street
Brazoria, Texas 77422
(979) 798-7441
(979) 798-7442 Fax

Conroe

North Thompson Professional
Plaza
702 North Thompson,
Suite 120
Conroe, Texas 77301
(936) 756-0050 Ext. 1386
(936) 756-1710 Fax

Huntsville Outpost

1220 11th Street
Huntsville, Texas 77340
(936) 291-5434
(936) 291-5455 Fax

REGION 4 - AUSTIN

Austin Regional Office
7700 Chevy Chase Drive,
Suite 200

Austin, Texas 78752
(512) 451-0231
(512) 451-0240 Fax

Lufkin

Angelina County Sheriff's Office
2311 East Lufkin Avenue
Lufkin, Texas 75901
(936) 634-1030

Richmond

Fort Bend County Sheriff's Office
1521 Eugene Heimann Circle,
Suite 111
Richmond, Texas 77469
(281) 239-2607
(281) 239-2545 Fax

Wharton Outpost

Wharton County Sheriff's Office
315 East Elm
Wharton, Texas
(979) 532-1550
(979) 282-2849 Fax

Belton

550 East Second Street
Belton, Texas 76513
(254) 933-5380
(254) 933-5369 Fax

Bryan

1716 Briarcrest Drive,
Suite 508
Bryan, Texas 77802-2700
(979) 260-8222
(979) 260-8224 Fax

Georgetown Outpost

517 Pine
Georgetown, Texas 78626
(512) 930-3203
(512) 930-3116 Fax

Llano Outpost

Llano County Sheriff's Office
2001 North State Highway 16,
Suite A
Llano, Texas 78643
(325) 247-3550
(325) 247-3273 Fax

New Braunfels Outpost

1297 Church Hill Drive
New Braunfels, Texas 78130
(830) 221-1175
(830) 620-5380 Fax

San Marcos

Hays County Courthouse
111 East San Antonio Street,
Suite 100
San Marcos, Texas 78666
(512) 393-7744
(512) 392-7260 Fax

Waco

900 Washington Avenue,
Suite 600
Waco, Texas 76701
(254) 776-7626
(254) 776-7628 Fax

REGION 5 - SAN ANTONIO

San Antonio Regional Office

Goliad Building
4203 Woodcock Drive,
Suite 120
San Antonio, Texas 78228-
1372
(210) 731-1720
(210) 731-1759 Fax

Cameron County

1390 West Expressway 83
San Benito, Texas 78586
(956) 361-9348
(956) 361-1572 Fax

Corpus Christi

2820 S. Padre Island Drive,
Suite 120
Corpus Christi, Texas 78415
(361) 851-2531
(361) 851-2536 Fax

Del Rio Outpost

1505 East Gibbs
Del Rio, Texas 78840
(830) 775-6582
(830) 774-8716 Fax

Floresville Outpost

800 10th Street
Floresville, Texas 78114
(830) 393-2535 Ext. 252
(830) 393-3259

Hondo

Medina County Sheriff's Office
801 Avenue Y
Hondo, Texas 78861
(830) 741-6150 Ext 112
(830) 426-7106 Fax

Laredo

1601 Ortiz Street
Laredo, Texas 78041
(956) 722-0404
(956) 722-1414 Fax

McAllen

Nightingale Plaza
6521 North 10th Street, Suite D
McAllen, Texas 78504
(956) 687-5141
(956) 687-5585 Fax

APPENDIX II

SPECIAL PROGRAMS AVAILABLE FROM

TABC *Updated 2017*

Contact your local TABC office if your police agency is interested in participating in any of these programs.

Cops in Shops (CIS)

During Cops In Shops operations, TABC agents, with the cooperation of retailers and their employees, pose as customers or employees of an establishment and apprehend underage violators as they attempt to purchase alcoholic beverages. TABC agents also have a secondary, educational role, which is to share their expertise with the retailer's employees on such subjects as false or fake ID's, the signs of intoxication, and the physical and behavioral characteristics of minors.

Operation Fake Out

To counter the use of fake ID's by underage drinkers, the TABC has developed Operation Fake Out. Operation Fake Out is a cooperative venture involving the alcoholic beverage retailers, the TABC, the Texas Department of Public Safety, U.S. Secret Service and whenever possible, local law enforcement.

TABC agents with expertise in detecting fake ID's work alongside the employees of participating on-premises retailers. The establishment's doorman checks an ID

presented and passes it to the TABC agent. The TABC agent re-checks the ID to detect tell-tale imperfections and then closely compares the person to the physical description and photo. Those found to be using fake or altered ID's are arrested and transported to jail.

Check the Label, Check the ID

Many malt beverages on the market today do not look like traditional beer or malt liquor products. The cans and bottles are similar to non-alcoholic containers, and the difference may go unnoticed.

Retailers, parents and teachers should be aware that many alcoholic beverages don't appear to be alcoholic, and it's worth taking a second look. All alcoholic beverages are required to state the alcohol content on the label.

TABC promotes safe and responsible practices related to alcoholic beverages by raising awareness. Retailers have a responsibility to check the label and check the ID.

Inspection Awareness and Safety Campaigns

TABC agents routinely inspect licensed premises and inspect or patrol other locations looking for violations of the *Texas Alcoholic Beverage Code* and other state laws. These inspection and patrol activities constitute a major portion of the TABC's overall enforcement effort and result in a substantial share of the criminal and administrative violations found by enforcement agents.

NOTES

NOTES

NOTES

NOTES

NOTES



Save a Life™
Texas Department of Transportation