

**81<sup>st</sup> Legislative Session**  
**Amendments to the Alcoholic Beverage Code**  
**and Chapter 501 of the Election Code (Local Option Elections)**  
**July 6, 2009**

<b>Bill No.</b>	<b>Author / Sponsor</b>	<b>Caption</b>	<b>Summary</b>	<b>Section of Code</b>	<b>Effective Date</b>
<b>HB1084</b>	Truitt / Gallegos	Relating to shipment of wine to ultimate consumers.	Texas wineries and out of state wineries could ship up to three gallons of wine every 30 days to a consumer in Texas. HB1084 changes the limit to nine gallons within a calendar month OR 36 gallons within a 12-month period.	16.09 AB Code 54.02 AB Code	9/1/2009
<b>HB1505</b>	Ortiz / Hinojosa	Relating to ownership of a license or permit authorizing the sale of alcoholic beverages at a facility owned by a municipality or county.	Amends the Public Entertainment Facilities Act. Exempts a facility owned by a city or county from the independent concessionaire requirements of Section 108.75, if the facility was financed by public securities, and the interest on which is tax exempt. HB1505 also allows a facility to enter into financial arrangements, including profit-sharing, with concessionaires without the risk of being found to be in violation of the subterfuge ownership prohibitions in section 109.53.	108.755 AB Code	9/1/2009
<b>HB1974</b>	Hamilton / Fraser	Relating to distilled spirits samplings by the holder of a distiller's and rectifier's permit.	Allows Texas distilleries to serve free samples on their licensed premises of the distilled spirits that they produce. Following are restrictions outlined in the bill: <ul style="list-style-type: none"> <li>• The sampling event may not be advertised except by on-site communication or direct mail.</li> <li>• Only the permit holder or agent or employee may dispense or participate in the dispensing of samples.</li> <li>• The distillery may not serve a person more than one sample of each brand of distilled spirits being served at a sampling event.</li> <li>• The distillery may not serve a sample to a minor or to an obviously intoxicated person.</li> <li>• Sample portions may not exceed one-half ounce.</li> <li>• A person who receives a sample may not take it away from the licensed premises of the distillery.</li> </ul>	14.01 AB Code 14.04 AB Code	5/13/2009
<b>HB2237</b>	Hamilton / Watson	Relating to possession by certain alcoholic beverage permit holders of certain alcoholic beverages for cooking purposes.	TABC by rule may allow (1) a wine and beer retailer to possess and use alcoholic beverages in excess of 17 percent by volume on the licensed premises for cooking purposes (2) a mixed beverage permittee to possess and use alcoholic beverages that are not covered by an invoice on the permitted premises for cooking purposes.	25.09 AB Code 28.06 AB Code	9/1/2009

Bill No.	Author / Sponsor	Caption	Summary	Section of Code	Effective Date
HB2560	Kuempel / Seliger	Relating to delinquent payment of an alcoholic beverage retailer's account for liquor.	TABC may not accept the voluntary cancellation or voluntary suspension of a permit or allow a permit to be renewed or transferred if the permit holder is delinquent in the payment of an account for liquor. A person whose permit is canceled by TABC or whose permit has expired is not eligible to hold any other TABC permit or license until the person has cured any delinquency of the person under this section.	102.32 AB Code	5/20/2009
HB2594	Thompson/ Gallegos	Relating to the hours for the wholesale delivery or sale of alcoholic beverages.	The holder of a wholesaler's permit may sell, offer for sale, or deliver liquor at any time EXCEPT on Sunday and Christmas Day. A general, local, or branch distributor's license holder may sell, offer for sale, or deliver beer at any time EXCEPT between 1am and noon on Sunday. HB2594 repealed Section 105.052. Delivery times for local distributor permits did not change.	105.02 AB Code 105.051 AB Code 105.052 AB Code repealed	5/5/2009
HB3413	Thompson / Averitt	Relating to the Texas Alcoholic Beverage Commission's authority to regulate certain nonalcoholic beverage business activities.	<p>Branded glassware is defined as glassware containing the emblem, name, logo or any reference to any alcoholic beverages.</p> <p>Wholesalers who are "primarily engaged in the wholesale sale of distilled spirits and wine" may sell branded or unbranded glassware to retailers. It may not be marketed or sold in a manner that: 1) influences the permittee or licensee to purchase any quantity of alcoholic beverage; or 2) affects the terms by which the retailer-level permittee or licensee purchases alcoholic beverages; or 3) threatens the independence of a retailer.</p> <p>Unbranded glassware or glassware that is branded with wine or spirits may be sold by a wholesaler to the retailer on a credit basis (like liquor - in accordance with AB Code 102.32). Glassware that is branded with malt beverages may be sold by a wholesaler or distributor to the retailer on a cash basis (like beer – in accordance with Sec. 61.73 and Sec. 102.31 AB Code).</p> <p>If a distributor sells non-alcoholic beverages to a retailer and the non-alcoholic beverages are produced or sold by a brewer or manufacturer AND the name/emblem/logo or brand of a malt beverage appears on the labels of the non-alcoholic beverages, then beer territorial agreements apply to these sales. (Chapter 102, Subchapter C Territorial Limits on the Sale of Beer AND Subchapter D Beer Industry Fair Dealing Law)</p>	102.071 AB Code	9/1/2009

Bill No.	Author / Sponsor	Caption	Summary	Section of Code	Effective Date
HB3829	Thompson / Harris	Relating to the per diem for members of the Texas Alcoholic Beverage Commission.	This bill amends the Alcoholic Beverage Code to allow TABC to pay per diem to the commissioners as outlined in the General Appropriations Act (\$30/day instead of \$10/day).	5.08 AB Code	6/19/2009
HB4498	Hamilton / Nichols	Relating to the issues upon which a local option election may be called.	<p>Amends the Election Code to provide greater ability to hold prohibitory local option elections.</p> <p>Additionally, the following applies to a mixed beverage or caterer's permit holder whose premises are located in a municipality that has a population of less than 15,000; is located in a county with a population of less than 65,000; and contains a historic preservation district that borders a lake: The holder of a mixed beverage or caterer's permit whose premises are located on property owned by a municipality that contains a municipally owned conference center and that borders a lake may permit a patron to leave the permitted premises, even though the patron possesses an alcoholic beverage, if:</p> <ol style="list-style-type: none"> <li>(1) the beverage is in an open container and appears to be possessed for present consumption; and</li> <li>(2) the public consumption of alcoholic beverages or possession of an open container of an alcoholic beverage is not prohibited on the municipally-owned property where the permitted premises are located.</li> </ol>	501.035(c) Election Code 501.035(d), (e), and (f) Election Code Repealed 28.101 AB Code 31.06 AB Code	9/1/2009
SB328	Carona / Phillips	Relating to the civil and criminal consequences of operating a motor vehicle or a watercraft while intoxicated or under the influence of alcohol.	<p>Provides that a minor commits an offense if the minor operates a watercraft while having any detectable amount of alcohol in the minor's system. Requires DPS to suspend a person's driver's license for operating a watercraft while intoxicated, or for a minor operating a watercraft while having any detectable amount of alcohol in his/her system.</p> <p>Allows any magistrate licensed to practice law in Texas to issue a warrant to collect a blood specimen from anyone:</p> <ul style="list-style-type: none"> <li>• Arrested for driving, flying, boating or assembling an amusement ride while intoxicated, or for intoxication assault; and</li> <li>• Who refuses a breath or blood test.</li> </ul> <p>The bill also makes conforming changes to Chapter 42 of the Code of Criminal Procedure and Chapters 521 and 524 of the Transportation Code relating to community service and license revocation.</p>	106.041 AB Code	9/1/2009

<b>Bill No.</b>	<b>Author / Sponsor</b>	<b>Caption</b>	<b>Summary</b>	<b>Section of Code</b>	<b>Effective Date</b>
<b>SB529</b>	Nelson / Truitt	Relating to the sale and use of certain alcoholic beverages manufactured by holders of a winery permit.	Texas wineries have been allowed to manufacture and import grape brandy for fortifying purposes only and only on the winery's licensed premises. SB529 allows Texas wineries to manufacture fruit brandy and use it for fortifying purposes or sell it to other Texas wineries. SB529 allows Texas wineries to import or buy fruit brandy from any permit holder authorized to manufacture fruit brandy, and use the fruit brandy on their premises for fortifying purposes only.	16.01 AB Code	9/1/2009
<b>SB693</b>	Van de Putte / Kuempel	Relating to the sale of an alcoholic beverage to a minor.	A person who sells a minor an alcoholic beverage does not commit an offense if the minor falsely represents himself to be 21 years old or older by displaying an apparently valid 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. The defenses added by this are available to a person regardless of when the offense was committed but only for trials commencing on or after the effective date of this Act.	106.03 AB Code	6/19/2009
<b>SB711</b>	Nelson / Geren	Relating to creating a winery festival permit.	Creates a Winery Festival Permit which authorizes wineries to sell wine at a civic or wine festival, farmers' market, celebration, or similar event. The permit fee is \$50 and may not be used for more than five days within any 30-day period or more than three consecutive days at the same location. The permit holder must notify the commission of the date and location before the permit is used. The provisions of this code applicable to the sale of wine on the permitted premises of the holder of a winery permit apply to the sale of wine under this chapter. The winery permit of the holder of a winery festival permit may be canceled or suspended for a violation occurring in connection with activities conducted under this chapter.	17.01-17.05 AB Code	9/1/2009
<b>SB731</b>	Jackson, Mike / Hardcastle	Relating to the sale of certain alcoholic beverages to private club registration permit holders.	Allows the holder of a wholesaler's permit, general class B wholesaler's permit or local class B wholesaler's permit to sell ale and malt liquor to a holder of a private club registration permit.	19.01 AB Code 20.01 AB Code 21.01 AB Code	9/1/2009

Bill No.	Author / Sponsor	Caption	Summary	Section of Code	Effective Date
<b>SB1016</b>	Estes / Flynn	Relating to the continuation and functions of the Department of Agriculture and the Prescribed Burning Board and the abolition of the Texas-Israel Exchange Fund Board.	Merges Texas Department of Agriculture's separate advisory committees for wine industry development and wine marketing assistance into a single Wine Industry Development and Marketing Advisory Committee. SB1016 provides that the Commissioner of Agriculture appoint a diverse cross-section of the wine industry and may appoint a person who previously served on either of the two wine committees.	110.002(b) AB Code 110.003 AB Code Repealed	9/1/2009
<b>SB1034</b>	Fraser / King, Susan	Relating to allowing the governing bodies of certain municipalities to order a local option election relating to the sale of alcoholic beverages.	<p>SB1034 applies only to a municipality:</p> <ol style="list-style-type: none"> <li>(1) with a population of at least 112,000 located in a county with a population of not more than 135,000;</li> <li>(2) in which the sale of one or more types or classifications of alcoholic beverage is legal in the municipality as a result of a local option election held in the municipality; and</li> <li>(3) that, after the election is held, annexes territory in which the sale of one or more of those types or classifications of alcoholic beverage is not legal.</li> </ol> <p>After holding a public hearing, the governing body of the municipality may, by resolution, order a local option election to legalize the sale of the same types and classifications of alcoholic beverages previously legalized by the municipality election. The election shall be conducted by the municipality instead of the county, and the municipality shall pay the expense of the election. This section expires September 1, 2015.</p>	501.021 Election Code	9/1/2009
<b>SB1969</b>	West / Leibowitz	Relating to nonsubstantive additions to and correction in enacted codes.....	Adds title to 16.06. Participation in Certain Off-Premises Wine Evaluation Activities. Replaces "penitentiary" with "Texas Department of Criminal Justice" in several places.	16.06 AB Code 101.69 AB Code 103.05 AB Code 206.06 AB Code	9/1/2009
<b>SB2558</b>	Gallegos / Thompson	Relating to the promotion and marketing of alcoholic beverages.	Vetoed by Governor Perry	108.101 AB Code	Vetoed
<b>SB2580</b>	Lucio / Geren	Relating to actions under the Beer Industry Fair Dealing Law.	The protections provided to beer distributors by Subchapters C and D (territorial agreements) apply regardless of whether there is a transfer or change of ownership of a brand at the manufacturing level. SB2580 provides that the statute of limitations for litigation under the Beer Industry Fair Dealing Act is four years. If a termination related to a change in ownership of the brand occurs, the cause of action accrues when either the new brand owner or the transferring or selling brand owner provides notice of termination to the distributor.	102.21 AB Code 102.82 AB Code	9/1/2009