

6,373 bills filed

6,304 total bills filed
last session

~95 bills filed
amending AB Code
(unprecedented)

27 passed
(or 30 if you count
those hitching a
ride)

Annual = Jan-Dec

**Yearly = rolling 12
months**

Posted online 9-26-13.

Updated slides 3-4 10-17-13.

83RD LEGISLATIVE SESSION UPDATE



- DISTILLERIES -

SB 905 by Van de Putte Sales to Consumers

Effective
9/1/13

- Authorizes distillery to sell product made on the premises direct to consumers at the distillery.
 - for on-premise consumption (up to 3,000 gallons annually) and
 - for off-premise consumption (up to 3,500 gallons annually)
 - in unbroken packages containing no more than 750 ml
 - no more than two 750 ml bottles or the equivalent to the same consumer in a 30-day period.

Amends 14.01, 14.04. New 14.05, 105.081 AB Code.
Repeals 14.01(c), 14.04(g) AB Code.
Amends 183.001 Tax Code.



- DISTILLERIES -

SB 905 by Van de Putte Sales to Consumers

Effective
9/1/13

- ◉ Distilleries not authorized to ship or deliver to consumers.
- ◉ Consumers purchasing must be present at the distillery.
- ◉ The bottle sold “to go” must “bear a notice affixed to the bottle that” says the bottle is commemorative, states the month and year the bottle is sold and is signed by an agent/employee of the permit holder.



SB 905 by Van de Putte

Effective
9/1/13

- ◉ Hours of sale for on-premise sales same as mixed beverage permit.
- ◉ Hours of sale for off-premise sales same as package store.
- ◉ Taxes paid for on-premise consumption sales same as mixed beverage permit.
- ◉ Sales taxes to be collected for off-premise commemorative bottle sales.
- ◉ Distilleries must keep records on consumer sales and gallonage. Retain for inspection.
- ◉ TABC will provide letter and/or training to educate Texas distilleries.



SB 905 by Van de Putte

Effective
9/1/13

- Because distilleries are now authorized to sell for on-premise consumption:
 - Stakeholder meeting to amend Rule 45.103 On-Premise Promotions to include manufacturing tier.
 - Application amended for city/county to certify “wet” status and zoning / distance requirements. If the distillery intends to sell for on-premise consumption, a city “might” refuse to certify (or protest upon renewal) if location isn’t wet for on-premise consumption. (Section 501.035(g) Election Code)
 - Post 60-day sign to notify community of application for new permit. (Section 11.391)
 - Notify neighbors within 300 feet of application for permit (Section 11.393)



SB 828 by Van de Putte Distiller's Agent's Permit

Effective
9/1/13

- Creates Distiller's Agent's Permit (DK) for employees of a Texas distillery.
 - May solicit and take orders from wholesalers
 - May conduct free tastings at package stores
 - Must buy product from the package store
 - Can't solicit business from MB or P unless accompanied by wholesaler
 - \$10 annual fee / \$20 for two-year permit
 - 5-day grace period. Must be 21 years old.
- Creates 5-day grace period for Manufacturer's Agent's Permit (works for nonresident seller)

New Chapter 15 and Section 36.09.
Amends 11.72 and 52.01(m) AB Code.



SB 828 by Van de Putte

Effective
9/1/13

- ◉ Note: SB 828 does not authorize distiller's agent to transport or carry liquor samples or give free bottle of spirits to a retailer.

Implementation:

- Amend Rule 33.23 to create surcharge for DK permit.
- Update marketing practice bulletin on product tastings.
- Letter and/or training to educate Texas distilleries.



Effective
9/1/13

SB 642 by Van de Putte

Bulk Sales to Industrial Permit Holders

- Allows distillers to sell bulk spirits to food processors holding an industrial permit.
 - Under current law, industrial permit holders must buy spirits by the bottle from a package store for use in food processing.
 - Retain records of bulk sales for audit by TABC.

Implementation:

- Letter and/or training to educate Texas distilleries.

New Section 14.05. Amends Section 14.01(a) AB Code.



SB 652 by Van de Putte Transfer of Bulk Product & Credit Law

Effective
9/1/13

- ⦿ Authorizes transfer of bulk alcohol between members of manufacturing tier, for manufacturing purposes, as permitted by federal law.
 - Federal law permits a distillery to buy from another distillery or a brewery.
- ⦿ Applies credit law restrictions when industrial permit holders buy product from wholesalers.



New Section 109.63, 109.64. Amends 14.01(a) AB Code.

SB 652 by Van de Putte

Effective
9/1/13

Implementation:

- Modify credit law Rule 45.121 to add industrial permit holders.
- Letter and/or training to educate Texas distilleries.



- BEER AND ALE -

SB 515 by Eltife Brewpubs

Effective
6/14/13

- Authorizes brewpubs to:
 - Produce up to 10,000 barrels annually (increased from 5,000).
 - Continue to sell to consumers at the brewpub for on- or off-premises consumption.
 - Sell their own brew to distributors or wholesalers for re-sale.

New Sections 74.08, 74.09, 74.10, 74.11 AB Code.
Amends 20.01, 64.01, 74.03, 102.54, 102.55, 102.71.
Repeals 74.01(f) AB Code.



SB 515 by Eltife

Effective
6/14/13

- If brewpub holds a BG and only sells/serves their own brew at the brewpub, they can sell their own brew direct to other retailers, and to any qualified person outside this state.
- The total amount sold to TX retailers may not exceed 1,000 barrels annually for each licensed brewpub location or 2,500 barrels annually for all brewpubs operated by the same licensee.
- The product sold directly to retailers is included in the 10,000 barrels production limit.
- Brewpubs are not authorized to transport ale. They must use Carrier Permit Holder to transport ale. Beer is legal for anyone to transport without a permit.



SB 515 by Eltife

Effective
6/14/13

- ⦿ The statute did not change with regard to sales of their brew to consumers away from the brewpub.
- ⦿ Brewpub can't sell their own brew under a temporary permit or caterer's permit. Must sell to a distributor/wholesaler, repurchase, then sell to consumers off the licensed premises.
- ⦿ See 74.01 Authorized Activities (a) A holder of a brewpub license for a brewpub ... may: sell or offer without charge, on the premises of the brewpub, to ultimate consumers for consumption on or off those premises....



SB 515 by Eltife

Effective
6/14/13

- ◉ Note: Certificate of Label Approval (COLA) and Territorial Agreements are required before product can be sold for resale.
- ◉ Federal TTB COLA is not required for brew being sold only in Texas, but TABC COLA is required.

Implementation:

- Amend Rule 45.131: Beer sales direct to retailers fall under cash law. Ale sales fall under credit law.
- Letter to notify brewpubs.



SB 516 and 517 by Eltife

Self-Distribution Permit/License

Effective
6/14/13

- Under prior law, a brewer/manufacturer who made less than 75,000 barrels annually can self-distribute any amount, selling direct to retailers.
- A brewer/manufacturer who makes less than 125,000 barrels annually can obtain a self-distribution license and/or a self-distribution permit and sell up to 40,000 barrels to retailers annually.
- DA (distribute ale) and DB (distribute beer)



New Chapter 12A and 62A AB Code.
Repeals 12.05, 62.12 AB Code.
Amends 151.465, 151.466 Tax Code.

SB 516 and 517 by Eltife

Effective
6/14/13

- Applications for a DA or DB will be accepted in October 2013 after surcharges are established by rule.
- DA and DB will be required as of 1-1-14 for anyone self-distributing.

Implementation:

- Amend Rule 33.23 to establish surcharges for DA and DB.
- Amend Rule 45.121 and 45.131: Sale of beer falls under cash law. Sale of ale falls under credit law.
- Letter to notify brewers/manufacturers.



SB 518 by Eltife

Sales to Consumers

Effective
6/14/13

- Brewers/manufacturers producing up to 225,000 barrels annually.
- Sales to consumers for on-premise consumption.
 - Up to 5,000 barrels annually.
 - Only product produced on the premises.
- Hours of sale and consumption:
 - 8 am and midnight Monday-Saturday.
 - 10 am and midnight on Sunday.
- Track sales to consumers and gallonage for audit.



New Sections 12.052, 62.122, 105.081 AB Code.

SB 518 by Eltife

Effective
6/14/13

- Because brewers/manufacturers are now authorized to sell for on-premise consumption:
 - Stakeholder meeting to amend Rule 45.103 On-Premise Promotions to include manufacturing tier.
 - Application amended for city/county to certify “wet” status and zoning / distance requirements. If the brewer/manufacturer intends to sell for on-premise consumption, a city *might* refuse to certify (or protest upon renewal) if location isn’t wet for on-premise consumption. (501.035(g) Election Code)
 - Post 60-day sign to notify community of application for new permit. (Section 11.391)
 - Notify neighbors within 300 feet of application for permit (Section 11.393)



SB 518 by Eltife

Effective
6/14/13

- Label approval is not required for product being served at the brewery (e.g. tastings of new batches). It is required for product being sold. (101.67 AB Code)
- Texas brewers/manufacturers are not authorized to sell or serve other Texas brewers' /manufacturers' products. They may possess it in bulk for manufacturing purposes. (109.63 AB Code)
- Texas manufacturers may import beer from a nonresident manufacturer and serve it. Cannot sell it to consumers. (62.07 AB Code)

Implementation: Letter to notify
brewers/manufacturers of the new law.



HB 3307 by Geren

Contract Brewing

Effective
9/1/13

- ◉ Defines alternating brewery proprietorship - two or more parties take turns using the physical premises of a brewery.
- ◉ Defines contract brewing arrangement - two breweries with separate facilities contract for one to make beer/ale on behalf of the other due to limited capacity or other “reasonable business necessity.”

Amends 1.04, 12.01, 12.06, 13.04, 61.41, 62.01, 62.14, 63.05 AB Code. New Section 102.22 AB Code.



HB 3307 by Geren

Effective
9/1/13

- ⦿ Authorizes brewers, nonresident brewers, manufacturers and nonresident manufacturers to engage in these activities.
- ⦿ Both parties *MUST* hold a license or permit at the location where the beer/ale is manufactured.
- ⦿ Removes the requirement that they have been in business on May 1, 2005.
- ⦿ Requires a bond for an entity involved in these activities that does not hold ownership (fee) interest in a brewing facility. A lease is not a fee interest.



HB 3307 by Geren

Effective
9/1/13

- The producing brewery must have a TTB brewer's notice at the facility where the brewing is conducted.
- The contracting brewery must have a TTB brewer's notice somewhere in the US, but not necessarily where the brewing services are conducted.
- If all you have is a recipe (and no facilities), it's not legal to contract with a brewer to make the beer and then share in production, distribution rights, profits and/or losses.
- However, it IS legal to sell a recipe and all rights associated with it (with no residual benefits) to a brewery for them to brew and sell the product as their own product.



HB 3307 by Geren

Effective
9/1/13

- ⦿ Under an AP, each party can sell/serve its product on the premises during the times it has control of the premises. However, TTB says products must be kept separate. Both parties' products can't be sold/served at the same time.
- ⦿ Under a contract brewing arrangement, the producing brewery cannot sell or serve the brew they made under contract.



HB 3307 by Geren

Effective
9/1/13

- Any brewer, nonresident brewer, manufacturer and nonresident manufacturer (not just contract or AP) shall verify to TABC on an annual basis that a brewing or manufacturing facility owned or controlled by the permit or license holder is not used to produce malt beverages primarily for a specific retailer or the retailer's affiliates.

Implementation:

- Amend Rule 33.27 establishing bonds.
- Letter to notify breweries/manufacturers.
- Require an annual affidavit showing compliance with the statute.



Effective
6/14/13

SB 639 by Carona

Manufacturer - Distributor Relations

- In this bill, manufacturer = brewer and distributor = wholesaler based on 102.81.
- Clarifies prohibition on reach-back pricing.
 - A manufacturer shall not adjust the price at which the manufacturer sells beer to a distributor based on the price at which a distributor resells beer to a retailer.
 - A manufacturer can set its own price based on factors other than a distributor's increase in the price it charges to a retailer.



Amends 102.75 AB Code.

SB 639 by Carona

Effective
6/14/13

- ⦿ Prohibits a manufacturer from accepting payment for territorial agreements.
- ⦿ Nothing in the Code prohibits contractual agreements between members of the same tier who hold the same licenses and permits.
 - Contractual agreements include the sale of territorial agreements between distributors.



SB 639 by Carona

Effective
6/14/13

- Nothing in section 102.75 AB Code shall interfere with the rights of a manufacturer or distributor from entering into contractual agreements that could be construed as governing ordinary business transactions.
 - Including, but not limited to, agreements concerning allowances, rebates, refunds, services, capacity, advertising funds, promotional funds, or sports marketing funds.

Implementation: Possible discussion on the need for a rule and/or marketing practice advisory for clarification.



- LICENSING ISSUES -

SB 1035 by Carona Streamline License Process

Effective
9/1/13

- Applicants pay state license fees directly to TABC instead of the county tax assessor-collector.
- Eliminates the requirement of hearings before the county judge in non-contested cases (no protests) but increasing the fee from \$5 to \$25.
- Codifies the practice of TABC giving 5% of the license fee to the county.
- Requires that notice of application be posted in a newspaper by the applicant instead of the county clerk. And allows electronic publication!

Amends 61.09, 61.31, 61.32, 61.33, 61.34, 61.35, 61.38, 61.41, 61.48, 61.49, 62.03, 74.05 AB Code.



SB 1035 by Carona

Effective
9/1/13

Implementation:

- Amend rules 33.6, 33.9, 33.13.
- Update Guide for County Tax Assessors, Guide for County Judges, Guide for County Clerks.
- TABC will notify cities and counties when renewals are due, so they can collect their fees directly from the applicant.



HB 2818 by Sheffield

Local Option Elections

Effective
9/1/13

- HB 2818 by Sheffield - Changing the wet or dry status in certain areas of a political subdivision.
 - Authorizes former JP election to be over-ridden by a JP election using current boundaries.
 - Authorizes BGs and BEs in community that has legalized MB and “beer and wine for off-premise consumption only.” BLs if certified for late hours.
 - Authorizes BGs and Bes with FB in area that has legalized RM and “beer and wine for off-premise consumption only.” BLs if certified for late hours.

New Sections 25.14, 69.17, 70.04 AB Code.

Repeals 251.80(c) AB Code.

Amends 251.72, 251.80 AB Code.



HB 2818 by Sheffield

Local Option Elections

Effective
9/1/13

- ◉ JP = Justice Precinct
- ◉ BE = beer on and off premise
- ◉ BG = wine and beer on and off premise
- ◉ BL = late hours license for BE or BG
- ◉ MB = mixed beverages (beer-wine-spirits on-premise)
- ◉ FB = Food and Beverage Certificate
- ◉ RM = MB only in restaurant with FB

Implementation:

- Update certification on application and instructions. Available 9/1/13.
- Update Guide for County Tax Assessors, Guide for County Judges, Guide for County Clerks.
- Meetings with city and county officials.



- REGULATORY ISSUES -

HB 1917 by Rodriguez

Effective

6/14/13

Advertising on Vehicles

- Allows alcohol advertising on the outside of public transportation & vehicles for hire.
 - Buses, trains, light rail, taxis, limos, rickshaws, pedicabs, etc.
- Allows local ordinance to ban alcohol advertising on vehicles for hire.

Implementation:

- Amend Rule 45.105.
- Update marketing practice bulletin.



HB 2806 by Geren

Delinquent List

Effective
6/14/13

- ◉ An account is not “delinquent” if the payment is received by the wholesaler not later than the fourth business day after the date payment is due under the credit law system.
- ◉ Revise rule on delinquent list to publish the list on the fifth day.

Implementation:

- Amend Rule 45.121
- Update marketing practice bulletin.

Amends Section 102.32 AB Code.



HB 1953 by S. Thompson

Check Deposit

Effective
9/1/13

- When selling liquor, the wholesaler or local distributor must deposit checks within five business days.
 - This avoids behavior that is tantamount to extending credit to the retailer.

Implementation:

- Update marketing practice bulletin.
- Update audit procedures.
- Notify wholesalers and local distributors.



Amends 102.32 AB Code.

Effective
9/1/13

SB 409 by Watson

Issue Permit Following Eviction

- Current law says that if an order of suspension against a permit or license is pending or unexpired, or if TABC has initiated action to cancel or suspend a permit or license, no permit or license may be issued for, or transferred to, the same licensed premises.
- SB 409 creates a new exception if the permit or license holder has been evicted from the premises under a final, non-appealable court judgment.

Implementation:

- Amend Rule 33.31.
- New form for final evictions 9/1/13.

Amends Section 11.44 AB Code.



HB 2460 by S. Thompson

ID Tax Stamps

Effective
9/1/13

- A mixed beverage or private club permittee may not possess an ID tax stamp unless it is affixed to a bottle or container of liquor.

Implementation:

- Amend Rule 41.71.



New Sections 25.151, 32.201 AB Code.

- TABC CLEAN-UP BILL -

SB 1090 by Carona

**Effective
9/1/13**

Amends 1.04, 5.11, 5.13, 5.15, 5.32, 11.72,
16.01, 16.03, 26.01, 45.01, 51.09, 61.38,
102.07, 102.15, 104.04, 106.09, 108.01,
108.09, 201.02, 201.41, 203.02 AB Code.

New 35.08, 36.09, 108.035, 108.01
AB Code.

Repeals 1.08 and the other 1.08
and 31.05 AB Code.



SB 1090 by Carona

Authentic Beverages v. TABC

Effective
9/1/13

- Eliminates sections of the Code found to be unconstitutional restrictions on free speech in *Authentic Beverages v. TABC*.
 - Legal to prearrange and preannounce promotional events for beer (just like wine and spirits).
 - Does not require malt beverage labels to designate alcohol content specifically using the words “beer,” “ale” or “malt liquor.”
 - Must have ABV or those words (beer/ale/malt liquor) on the label.
 - Beer/ale definitions still exist for taxing, licensing and local option election purposes.



SB 1090 by Carona

Authentic Beverages v. TABC

Effective
9/1/13

- Eliminates sections of the Code found to be unconstitutional restrictions on free speech in *Authentic Beverages v. TABC*.
 - Legal to advertise the alcohol content of malt beverages (just like wine and spirits).
 - Legal to advertise where malt beverages and spirits can be purchased (just like wine).

Implementation:

- Update marketing practice advisory.



SB 1090 by Carona

Agent Licenses/Permits

Effective
9/1/13

- ⦿ More consistency with types of agent's licenses and permits.
- ⦿ Gives TABC authority to penalize permit holder for manufacturer's agent's activities (just like agent's permit).
- ⦿ Five-day grace period (just like beer agent's license).
- ⦿ Establishes a minimum age of 18 for the holder of a manufacturer's agent's permit (just like agent's permit and beer agent's license). Distiller's agent must be 21.



Effective
9/1/13

SB 1090 by Carona

Branded Promotional Vehicles

- ⦿ Applies only to a manufacturer, non-resident manufacturer, non-resident seller.
- ⦿ They can display a branded promotional vehicle on a retail premises.
 - outside or inside a structure on the premises
 - not more than five hours a day
- ⦿ Note: Does not apply to a Texas brewer, Texas distiller, Texas winery.



SB 1090 by Carona

Co-Packs for Beer

Effective
9/1/13

- ⦿ Applies to manufacturers/brewers and nonresident manufacturers/brewers.
- ⦿ Authorizes them to package alcohol in combination with other items (co-packs) if the package is designed to be delivered intact to the wholesaler or distributor.
 - The additional items must be branded and have no value or benefit to the retailer other than the potential of promoting sales.
- ⦿ This is already legal for spirits, wine and ale.
- ⦿ Amend Rule 45.120 to include beer.



SB 1090 by Carona

Clarifications of Statute To Match Current Practice

Effective
9/1/13

- ◉ The location of a storage permit does not have to be owned by the permit holder. It can be leased by the permit holder.
- ◉ Tap handles for all malt beverages (not just beer) must be labeled with the name of the brand of product being dispensed.
- ◉ Texas wineries can purchase from a non-resident seller wine intended for re-sale, in addition to wine intended for blending purposes.



SB 1090 by Carona

Clarifications of Statute To Match Current Practice

Effective
9/1/13

- ⦿ Criminal negligence has the meaning assigned by Section 6.03, Penal Code.
- ⦿ Prohibits open containers at a wine and beer retailer off-premise location (BQ) except at an authorized sampling event.
 - No Wine Daiquiris To-Go at a BQ!
- ⦿ Does not authorize the sale of alcohol from a coin-operated machine or similar device if it is operated by the consumer.
 - Examples of “similar devices”: Enomatic, Table Tap, I-Pourit



- WINERIES AND WINE -

SB 131 by Nelson Winery Hours of Sale

Effective
9/1/13

- ⦿ A winery permit holder may sell, offer for sale, and deliver wine, and a person may consume wine on the premises of a winery until 2 am on New Year's Eve.
- ⦿ Applies to on- and off-premises sales.



Amends Section 105.08 AB Code.

- WINERIES AND WINE -

SB 950 by Carona

Effective

9/1/13

Primary American Source

- Clarifies that each brand of wine or spirits imported into Texas must have only one Primary American Source of supply.
 - Exception: Wines bottled or produced outside the U.S. may have more than one.
 - Requires wineries to purchase wine from the Primary American Source as wholesalers do.
- Rare wines purchased at auction which do not have federal certificate of label approval (COLA) are not required to have a COLA to get label approval from TABC.



Amends Sections 37.10 and 101.671 AB Code.

SB 950 by Carona

Effective
9/1/13

Implementation:

- New Rule: Specify which foreign wines may have more than one Primary American Source.
- New Rule: Define rare wines.
- Letter or bulletin to notify Texas wineries.
- Require Letter of Authorization to prove Primary American Source.



Amends Sections 37.10 and 101.671 AB Code.

- ON-PREMISE RETAILERS -

HB 3572 by Hilderbran Mixed Beverage Taxes

Effective
1/1/14

- ⦿ Impacts Mixed Beverage Permits, Private Clubs and Distilleries
- ⦿ Reduces 14% mixed beverage gross receipts taxes to 6.7% (paid by permittee)
- ⦿ Creates an 8.25% mixed beverage sales tax (paid by patron).
- ⦿ Essentially it shifts part of the tax burden to the consumer.



Amends the Tax Code.

HB 893 by Geren

Texas Rangers Stadium

Effective
6/14/13

- ⦿ Allows Texas Rangers Stadium in Arlington to let patrons come and go from mixed beverage permitted areas of stadium with drink in-hand.
 - Drinks must be in open containers and possessed for present consumption.
 - Drinks cannot leave stadium, cannot enter parking lots.



Creates a new Section 108.82 AB Code.

DISCLAIMER

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The material was prepared by the staff as an introduction for industry members. Staff has found that the answer to a specific question is frequently affected by the individual factual circumstances that provide the context for the question and therefore it is often impossible to provide a definitive answer that applies in all situations. Industry members should not rely on or make business decisions based solely on the statements in this material. Therefore, this material should not be viewed as providing such definitive guidance.

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