

## CONDUCT SURETY BONDS REVISITED

During the 1995 legislative session, House Bill 984 was passed and signed into law creating requirements for certain retail license and permit holders to obtain a conduct surety bond in the amount of \$5,000, and if the licensed premises is within 1,000 feet of a public school, \$10,000. The law and subsequent rule provide that the bond may be revoked if the license or permit is cancelled or if the licensee or permittee has been finally adjudicated for three or more violations after September 1, 1995.

There may be certain license and permit holders

among these who are exempt from the provisions of the conduct surety bond. They must meet the following conditions:

- ◆ They must not have had any license or permit issued under the Alcoholic Beverage Code cancelled for cause during the preceding five (5) years;
- ◆ They must not, at the time of filing for an original or renewal license or permit, be subject to any pending revocation proceeding; and
- ◆ They must have been in operation at the present location for at least three (3) years.

If one location is exempt from holding a

conduct surety bond, all other locations with licenses or permits held by that individual may also be exempt. In addition, if a license or permit holder also holds a food and beverage certificate, the applicant is exempt from having a conduct surety bond at that location.

This legislation was not new. It was first passed in 1993 for Harris County alone. When challenged in court, the court ruled that the Legislature could not pass a bill limited to one county. During the past session, the Legislature extended the provisions statewide. During the fall of 1995, the statute was again challenged in district court. This time the court refused to issue an injunction and upheld

the merits of the law. At this time, even though consideration is being given to appealing the case, the law is in effect and current license and permit holders and applicants must obtain a conduct surety bond unless they are exempt in order to obtain a license or permit.

TABC offices attempt to keep a current list on hand of companies approved by the State Board of Insurance to write conduct surety bonds. Most people are finding that after an initially difficult time in finding companies to write the bonds and high premiums, that the market has now leveled out and bonds are available at competitive prices. For more information, call your local TABC office or the headquarters Licensing Department at (512) 206-3370.

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### Licenses and Permits Affected By Conduct Surety Bond Requirements:

- Package Store Permits
- Wine & Beer Retailer's Permits
- Wine Only Package Store Permits
- Mixed Beverage Permits
- Private Club Registration Permits
- Private Club Exemption Certificates
- Retail Dealer's On-Premise Licenses
- Wine & Beer Off-Premise Retailer's Permits



## Licenses & Permits:

The 74th Legislature requested the agency to make recommendations for the next legislative session on ways to consolidate or simplify the number of licenses and permits needed to operate an alcoholic beverage business. The intent of the recommendations is to reduce the number of permits required for a single business location while maintaining the current regulatory structure and scheme.

Several basic assumptions were used in developing the following recommendations:

- ◆ simplify the statutory language in order to reduce or simplify the agency process and make the code more understandable for non-agency personnel;
- ◆ consolidate licenses/permits to reduce the overall number of licenses and permits; and
- ◆ do not substantially change the way the alcoholic beverage business operates and do not require substantial revisions of the Alcoholic Beverage Code.

For new business ventures, the applicant will find that the application process, adherence to regulations, and assurance that all

## A Look at Consolidation and Simplification

needed permits are obtained, are enhanced due to a fewer number of licenses/permits involved. From the agency's perspective, fewer numbers of licenses/permits will allow the staff to focus on the primary issue of reviewing applications and ensuring qualified applicants are licensed.

"The implementation of these recommendations will benefit the general public by making the process of applying for a permit or a license less bureaucratic and hopefully easier to understand," says Jeannene Fox, Director of Licensing & Compliance. The

recommendations would reduce the types of permits and licenses from 58 to 38 and the number of permits and licenses issued annually would be reduced approximately 32,000. "These reductions would mainly result from the same number of people applying for one permit which would allow them to do the same activity that now requires two or three separate permits," adds Fox.

The recommendations are lengthy, and we are not able to reproduce them in the newsletter; however, a sample of the recommendations are indicated below.

Type of Business	Current Permits Required	Recommended
Liquor Store	Package Store Permit, Beer Retail Dealer's Off Premise License, Local Cartage Permit, Package Store Tasting Permit	Package Store Permit
Restaurant	Mixed Beverage Permit, Beverage Cartage Permit, Mixed Beverage Late Hours Permit	Mixed Beverage Permit Mixed Beverage Late Hours Permit
Wholesaler	Wholesaler's Permit, Private Carrier's Permit	Wholesaler's Permit
Distributor	General Distributor's License, Importer's License, Importer's Carrier's License	General Distributor's License

### NOTE:

**These changes have not occurred. They are recommendations the agency has sent to the Legislature for possible action during next year's session.**

## Administrator's Corner

Welcome to the first issue of *TABC TODAY*. The newsletter reflects our belief that ongoing communication with the industry we regulate will improve the services we provide. Through dialogue, we hope to continue to build a relationship of openness, trust and mutual understanding of our roles and responsibilities.

Since their inception a few years ago, customer satisfaction surveys have been useful in implementing our performance measures. Whether assessing enforcement, licensing and/or compliance practices, the feedback we receive from

you continues to provide us with input that enables us to strive for continuous improvement in our performance. As a matter of fact, several people have noted that they don't get enough information about our agency. We're listening! We hope this newsletter will help fill that void.

As with our customer surveys, we are currently involved in a concerted effort to assess the satisfaction of our own employees with their jobs and the agency as a whole. Through The University of Texas at Austin, we are participating in the "Survey of Organizational Excellence" which will give us a better insight to what our employees feel. We see a direct link between the satisfaction of our employees and the quality of services being provided to our customers.

This, too, is a sign of TABC today.

Input from the alcoholic beverage industry as well as the general public will remain an integral component of our strategic planning, development of performance measures and overall agency operations.

Our governmental responsibility is to deliver efficient and effective regulatory and enforcement services. Our corporate opportunity is to do so in a manner that will maintain the public confidence. You make a contribution to our success each time you communicate with us. Let me take this opportunity to thank you for making us aware of ways we can improve and for sharing with others the good experiences that you have with TABC.

*Doyne Bailey*

# Stop Alcohol Violations Early:

## Project S.A.V.E. Offers Valuable Information



**P**roject SAVE (Stop Alcohol Violations Early) is a public awareness program designed to provide vital information about alcoholic beverage laws, especially those concerning underage drinking. Presentations are delivered by TABC agents who have extensive knowledge and specialize in alcoholic beverage laws. Each Project SAVE program is tailored to the type of audience addressed.

Recently, TABC conducted research and consulted with people in the alcohol education field to determine how to revise the Project SAVE program to increase its effectiveness. In February 1996, Greg Hamilton, Chief of Enforcement, appointed a steering committee to research and plan the revised curriculum and marketing campaign. The committee is composed of enforcement agents skilled in the current Project SAVE effort and headquarters staff skilled in media relations, curriculum development, coalition building, and budgeting or funding alternatives. The agency is also using an outside expert in school-based alcohol prevention efforts.

The new Project SAVE

program targets the entire community by offering a program not only to school children in the 3rd, 5th, 6th, 7th, and 9th grade, but to parents, community groups, faith groups, civic groups and retailers in the area. Additional liquor law training will also be offered to local and state law enforcement agencies. "By trying to reach the entire community, the Project SAVE message will be more effective," says Hamilton.

The committee is also developing a Project SAVE program for on- and off-premise retailers. A SAVE program has always been available to retailers upon request. In the future, agents will actively promote this program as a way to help retailers and their employees avoid alcoholic beverage violations.

The SAVE program for retailers will include instruction on identifying minors, fake identifications, intoxicated persons, how to deny sales, and pertinent Alcoholic Beverage Code issues. This course provides instruction in those topics most requested by retailers, including private club record keeping and other aspects of the Alcoholic Beverage Code. Recent focus groups held in four locations across the state have helped identify specific issues that

retailers would like to see in the program.

Focus group sessions were conducted statewide in June.

*"By trying to reach the entire community, the Project SAVE message will be more effective."*

*- - - Greg Hamilton*

Separate groups made up of parents and civic leaders, teachers, students and alcoholic beverage retailers provided the agency with information used to develop the learning objectives and teaching strategies for the various Project SAVE programs.

The committee has also begun to organize coalitions with community businesses, civic groups, school groups and officials interested in Project SAVE. The purpose of these coalitions is to:

- ◆ solicit support for the program,
- ◆ gain understanding of what the community expects from the program,
- ◆ increase name recognition of the program in the schools and community, and
- ◆ get the community to "buy in" to the concept of this program benefiting the whole community.

The revised Project SAVE will also be evaluated

by a university expert who has extensive experience in evaluating the effectiveness of these types of programs.

A comprehensive marketing campaign is also being developed. It will include media kits, feature articles for various publications, a speaker's bureau, and public service announcements.

Project SAVE will be piloted in diverse geographic areas of the state in early 1997. Based on feedback and comments, revisions and adjustments will be made to the program before implementing it statewide in September, 1997.

Contact the TABC office nearest you for more information about Project SAVE.

*In the future, agents will actively promote the retailers' SAVE program as a way to help retailers and their employees avoid alcoholic beverage violations.*



**W**aco Agent Doris Board fields questions from students at Hillsboro Junior High school during a Project SAVE session. Last year, 203,146 persons attended SAVE presentations, including 164,762 students. Presentations are available for students in the sixth through twelfth grade, civic organizations, and retail dealers of alcoholic beverages.

## At Issue: Marketing Practices

The public policy behind the prohibition against allowing minors to possess or consume alcoholic beverages may be easy to understand. The benefits to this are obvious to everyone except possibly the minors themselves. Public policy underlying the prohibition against drunkenness and the abuse of alcoholic beverages is also obvious. The prohibitions are clearly evident when encountered by those charged with the responsibility to enforce the written law arising from public policy. The proper payment of taxes as well as the legal qualification to operate in the alcoholic beverage industry are also elements arising from public policy, and there are other recognizable agency functions that contribute to an orderly society.

Not all public policies are so easily understood. For example, the public policy behind marketing practices is just as important as some of those noted above. The goal of regulating marketing practices in the alcoholic beverage industry has been identified as enforcing healthy competition in order to insure the best possible quality and selection for the consumer and to prevent many of the problems which led to prohibition early this century. This goal is also based upon public policy that supports an orderly society.

Competition creates a

healthy marketplace for all products. Alcoholic beverages are a regulated item that requires some curbs in the areas of promotion and marketing. The agency's aim is to reduce any promotion designed to encourage drinking per se as opposed to brand identification. Also, the agency attempts, through enforcement of the law and agency rules, to promote fair competition among both large and small companies to allow for new business development within the state.

From time to time, the agency emphasizes that field agents and compliance officers concentrate on marketing practices. Some of the issues looked at include, but are not limited to, manufacturing or wholesale level companies performing illegal services for retailers in an effort to win their brand placement. This may include providing equipment or resetting shelves. They may attempt to provide decorations to retailers to win favors, or to overly promote their product through preannounced or excessive bar spending or other promotions. These practices are illegal.

In an attempt to clarify what practices are legal and illegal, the agency is seeking to amend current rules to better and more clearly define terms and practices.

Individuals wishing to submit changes to rules may contact the agency's general counsel or the executive office in Austin.

## Seller Training Update

§106.14

(Alcoholic Beverage Code)

Persons that pass a seller training program receive blue and white wallet-size certification cards signed by the Administrator Doyne Bailey. Cards printed August 1995 bear both

Some licensees/permittees believe that there is a "grace" period for new hires to be certified through a seller training program. It is true that a TABC agent will establish that a licensee/permittee is requiring employees to attend



the effective date and expiration date. Cards printed before September 1995 only have the effective date.

It takes four to six weeks for the cards to reach the trainees. Many of the schools issue their own certificates or receipts.

To verify that someone has attended a training class, an employer should review the TABC certification card and ensure that the name and dates have not been altered. There have been a couple of cases where a name or date was changed and only a black and white copy was shown to the employer. When in doubt, call the TABC district office or the seller training office at (512) 206-3420 to find out if someone is certified.

seller training programs and if all the employees who have been working

for at least thirty (30) days are certified. However, if the untrained new-hire sells to a minor or intoxicated customer, the employer will not receive any relief under Section §106.14. The second criteria states that the employee must have actually attended a training program. To ensure that a licensee/permittee will receive relief under Section §106.14, many employers require seller training certification as a condition of employment.

Seller training is still a voluntary program in Texas. Those who want to receive the relief provided under this section should note that all three of the provisions must be met prior to an offense.

## TABC STATS & FACTS...

Fees and taxes collected by our Ports of Entry Section for the 1996 fiscal year have increased 23% over the same time period last year. Total collection for fiscal year 1996 should approach three million dollars.

The Compliance Department will collect more than \$145 million dollars in excise taxes for fiscal year 1996, ending August 31, 1996.

Our Ports of Entry Section confiscates alcoholic beverages and cigarettes for violations ranging from importation of products in quantities over the amounts allowed by law, to attempted importation by minors or intoxicated persons. These confiscations will total more than 6,000 containers for the 1996 fiscal year.



## TABC Involvement With Legislative Committees

Several legislative committees have been studying issues involving minors' access to alcoholic beverages and DWI issues. Lieutenant Governor Bob Bullock appointed Senator Royce West from Dallas as chairman of the Senate Interim Committee on Juvenile Driving While Intoxicated Laws. Other committee members include Senators Eddie Lucio (Brownsville), Florence Shapiro (Plano), Jim Turner (Crockett) and Jeff Wentworth (San Antonio).

The committee is charged with studying and making recommendations regarding the establishment of a lower DWI blood alcohol threshold for juveniles than for adults; whether changes in the penalties and procedures for dealing with related intoxication offenses could reduce the incidence of juvenile DWI; whether changes are needed in the laws prohibiting sales of alcoholic beverages to minors or in enforcement of such laws; and prevention and intervention measures that hold promise for reducing the incidence of juvenile DWI

and those that merit expansion.

The National Highway System Act signed into law recently includes a provision that requires all states to adopt an "under .02" blood alcohol DWI standard for minors as a condition to receive federal highway funds. Texas stands to lose \$36.4 million in federal highway money in 1998 and \$74.8 million in 1999 if the state does not enact such a standard in the next session.

West stated, "I see our committee's objective as two-fold; in order to address the problem of underage drunk driving, we must first look at ways to prevent the use of alcohol by those under the age of 21. We will be investigating the enforcement of our liquor laws, as well as looking at stiffening the penalties for violations of these laws." He also stated that "we need to do a better job of educating our youth to the dangers of alcohol abuse."

The hearings were held in Austin, Dallas, Houston, San Antonio, Brownsville, and Midland. Testimony was received from the National Highway Traffic Safety Administration, the Century Council, the TABC, the

Department of Public Safety, local police and sheriffs' departments, Mothers Against Drunk Driving, Texas Commission on Alcohol and Drug Abuse, Texas Youth Commission, and citizens from other areas.

### House Committee On Criminal Jurisprudence

The Texas House Committee on Criminal Jurisprudence was directed by Speaker of the House Pete Laney to review the laws and procedures relating to driving while intoxicated, including blood-alcohol levels, sobriety check-points and open containers in automobiles.

The Speaker appointed Robert Talton (Pasadena) as chairman of the subcommittee. Other members include Sam Hudson (Dallas), Joe Pickett (El Paso), and Jim Solis (Harlingen).

Public hearings were held in Austin and testimony was received from various state agencies and local groups including, the TABC, Mothers Against Drunk Driving, Representative Buddy West, Texas Commission on Alcohol and Drug Abuse, Texas Department of Public Safety and others.

### Senate Health And Human Services Committee

Lieutenant Governor Bob Bullock also directed the Senate Health and Human Services Committee to identify necessary steps required to limit minors' access to alcohol and tobacco. Administrator Doyne Bailey offered testimony before this group.

*Senator Royce West of Dallas chairs the Senate Interim Committee on Juvenile Driving While Intoxicated Laws that has held hearings throughout the state. A final report detailing the committee's findings and recommendations is due in September.*

## Licensing



### News & Notes

Effective October 1, 1996, the surcharges added to licenses and permits will again change. All licenses and permits with an issue date of October 1, 1996, or later will have a slight increase in their surcharges ranging from \$2.00 to \$6.00.

To avoid delay in processing your application, either for an original or renewal, please pay close attention to the surcharges in effect at the time of your application for a permit/license.

Surcharge charts, with the appropriate amounts, will be included in your application packet or printed at the top of your renewal application.

If you have any questions regarding your surcharges, please contact your local TABC office or call the Licensing Department in Austin.

Thanks to everyone who took time to respond to the license and permits questionnaires issued by the agency. Licensing Department Director Brian Guenther reports that, in response to the input received through the surveys, new application forms, procedures and printed instructions are being prepared and will soon be ready for distribution. "The new forms will be more 'user-friendly' and should greatly assist anyone when applying for a license," says Guenther.



Photo Credit: Senate Media Services

**W**ebb County Judge Mercurio Martinez, at podium, is joined by State Representative Henry Cuellar, left, Senator Judith Zaffirini and TABC Administrator Doyne Bailey during the recent announcement of the Cops In Shops program in Laredo. Cops In Shops is a program in which TABC agents pose as either employees or customers in retail establishments licensed for sale of alcoholic beverages for off-premise consumption. The goal of the program, which currently serves 28 counties, is to enforce state laws regarding the illegal purchase of alcoholic beverages by persons under 21 years of age. By deterring the illegal use of alcoholic beverages by minors, both the TABC and the Texas



Photo Credit: Laredo Morning Times

Department of Transportation are working together to reduce the number of minors involved in alcohol-related traffic crashes. According to Sergeant Mickey Whitley, program coordinator, the agency plans to start a similar program at on-premise locations in the near future. For more information, contact Sergeant Whitley at (512) 206-3431.

**Allan Shivers, Jr., Chairman  
Roy Orr, Commissioner  
Martha Dickie, Commissioner  
Doyne Bailey, Administrator**

The TABC Today is an external publication of the Texas Alcoholic Beverage Commission. We welcome comments, suggestions and/or questions from our readers. To report a possible violation of the Alcoholic Beverage Code, call toll-free 1-888-THE-TABC (Voice/TDD).

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