

The background features a large, faint seal of the Texas Alcoholic Beverage Commission. The seal is circular with a five-pointed star in the center. The words "TEXAS ALCOHOLIC BEVERAGE COMMISSION" are written around the perimeter. Inside the star, there is a smaller seal with the words "SERVICE", "COURTESY", "INTEGRITY", and "ACCOUNTABILITY" around a central star.

85th Legislature, Regular Session Legislative Update

July 2017

- LICENSING-

HB 2101 by Frullo

Effective
9/1/17

- Changes criteria for and provides consistency in calculation among retailers for obtaining a food and beverage certificate.
- Increases the threshold to qualify for a food and beverage certificate from no more than 50% of gross receipts attributed to alcohol to no more than 60%.
- Removes comptroller's role in certification process for Mixed Beverage Permits (MB, RM) and Private Club Permits (N, NB).
- Changes the calculation for on-premise retailers to compare total receipts from the sale of alcoholic beverages with the total receipts for the location (which is practical application employed by Licensing now for beer and wine retailers (BGs and BEs)).
- Establishes consistency regarding cancellation, denials, etc.

Implementation on next slide

- LICENSING-

HB 2101 by Frullo (continued)

Effective
9/1/17

Implementation:

- Amend Rule 33.5 (September)
- Update Audit forms and procedures (by September)
- Update Licensing policies and procedures (by September)
- Update Responsibility Course
- Update Industry Guide
- Update FAQs regarding Food & Beverage Certificates
- IT coding

Amends AB Code: 25.13, 28.18, 32.23, and 69.16
Repeals AB Code: 28.18(d) and 32.23(d)

- LICENSING-

HB 4042 by Paddie

Effective
9/1/17

- Modifies temporary auction permit by removing
 - "charitable" in name
 - surcharge
 - limitation of one per year
- Expands permit to those subject to Chapter 254, Elections Code (political action committees)

Implementation:

- Update Rule 33.23(c) to remove surcharge (November)
- Update Licensing procedures
- Update Industry Guide
- Update Responsibility Course
- Update application
- IT Coding

Amends AB Code: 53.001 – 53.009

- LICENSING-

HB 3101 by Kuempel

Effective
5/29/17

- Creates a Passenger Bus Beverage Permit with \$500 annual fee
- Eligibility restricted to a bus used for regularly scheduled trips between cities AND has passenger deck over baggage compartment; seats 16-36 passengers; has a separate gallery area; is at least 35 feet long; and has an attendant who is not the driver and has taken seller server training.

Implementation:

- Update Rule 33.23(b) to add surcharge (November)
- Create new application for new permit • IT Coding
- Update Responsibility Course • Update Industry Guide

Amends AB Code: 11.38(d) and 101.46(b)

Adds AB Code: 48A.01 – 48A.06

- LICENSING-

SB 1176 by Campbell

Effective
5/18/17

- Creates a water park permit with \$30 annual fee
- Written so criteria only applies to Schlitterbahn in New Braunfels

Implementation:

- Update Rule 33.23(a) to add a surcharge (November)
- Create a new licensing application for subordinate permit
- IT coding

Adds AB Code: 56.01 – 56.04

- LICENSING-

SB 1519 by Hancock

Effective
6/1/17

- Changes definition of Public Entertainment Facility to include a facility that's part of an approved venue project, including the venue and related infrastructure, as defined by Section 334.001, Local Government Code.
- Allows the referenced facility to receive upper tier sponsorship regarding the promotion or advertising of an entertainment event or an alcoholic beverage brand or product.

Amends AB Code: 108.73(2), 108.755(a)

- MARKETING PRACTICES -

HB 3287 by Goldman

Effective
6/15/17

- Subject to certain exceptions, if combined annual production at a brewery and all of its affiliated or subsidiary breweries exceeds 225,000 barrels, the brewery can NOT **sell** at its taproom.
 - One exception is a brewery that had a taproom before 2/1/2017 AND whose annual production at the brewery is less than 175,000 barrels, even if its combined annual production with its affiliates and subsidiaries exceeds 225,000 barrels.
 - The second exception is a brewery that purchased an ownership interest in a-another brewery AND whose annual production at the purchasing brewery was less than 175,000 barrels, even if its combined annual production with its affiliates and subsidiaries exceeds 225,000 barrels.
 - The third exception is a brewery that was purchased by another brewery AND whose annual production at the purchased brewery was less than 175,000 barrels, even if its combined annual production with its affiliates and subsidiaries exceeds 225,000 barrels.
- To qualify for the second or third exceptions, a brewery cannot sell to any brewer that exceeds 225,000 barrels annually at all locations combined an ownership interest of more than 25% in its location OR any ownership interest that gives the purchasing brewery the ability to control the operations at the purchased brewery's location.
- If a brewery is allowed to sell at its taproom because it falls under one of the exceptions, it must file a territorial agreement, purchase the malt beverages sold in the taproom from a distributor, and comply with the cash law requirements in §102.31 and other provisions of the Code governing distributor/retailer dealings.

- MARKETING PRACTICES -

HB 3287 by Goldman (continued)

Effective
6/15/17

- A brewery may self-distribute only if annual production at the brewery and all of its affiliates and subsidiaries is less than 125,000 barrels combined.
- A brewery cannot self-distribute more than 40,000 barrels annually combined from the brewery and all of its affiliates and subsidiaries.
- Grandfathers in Karbach, Revolver, and Independence
 - Can sell in a taproom under law that existed before HB 3287
 - Can establish no more than 2 more taprooms (each selling up to 5000 barrels annually) as long as those additional taprooms each produce less than 225,000 barrels and the brewer files a territorial agreement and goes through a distributor

Implementation:

- Update Industry Guide
- Discuss processes in Licensing and Marketing Practices regarding changes in ownership and gallonage thresholds

Amends AB Code: 12A.02(a), (b), 12.052,
62A.02(a), (b), 62.122

- MARKETING PRACTICES-

HB 2299 by S. Thompson

Effective
9/1/17

- In addition to TABC and an independent lab, a producer of malt beverages can utilize its own laboratory to test its products.
 - Requires the producer's lab be certified by TTB
- Gives TABC authority to request an affidavit as proof that an independent laboratory is independent.

Implementation:

- Amend Rules 45.71 and 45.85 (September)
- Update Industry Guide
- Update FAQ (by September)

Amends AB Code: 101.67(a), (d)-(e)

- MARKETING PRACTICES -

HB 2097 by Geren

Effective
9/1/17

- Affirms a brewpub with a Wine & Beer Retailer's Permit can sell wine on the premises...even if self-distributing malt products produced on premises
- Conforms to practice and eliminates confusion in Code.

Implementation:

- Update Industry Guide
- Update Responsibility Course

Amends AB Code: 74.08(a)

- MARKETING PRACTICES-

HB 3003 by Kuempel

Effective
9/1/17

- The prize awarded in a sweepstakes by a brewer (added in bill), manufacturer or nonresident manufacturer may include food, beverages, entertainment, recreation, gifts, or attendance **at private event at a licensed/permitted premise** for the sweepstakes winners and guests of the event sponsor.
- Upper tier conducting/sponsoring event must pay retailer fair market value for use of premises.
- The retailer must retain control of the sale and service of alcoholic beverages at the event.

Implementation:

- Update Rules 45.103, 45.106, 45.113 & 45.117 (November)
- Update Industry Guide
- Update Responsibility Course

Amends AB Code: 108.061

- AUDIT-

SB 371 by Watson

Effective
9/1/17

- Eliminates inconsistencies in Code so there is no longer any requirements for an on-premise retailers to have running water or a toilet.
- Aligns beer and wine licenses/permits with mixed beverage permits

Implementation:

- Update audit inspection forms
- Update Industry Guide
- Update Licensing policies and procedures
- Update Responsibility Course
- Update Licensing FAQ

Amends AB Code: 5.61(b), 11.49(b)(2), 61.43,
61.71(a), (b), (d), 109.59(d)

- FIELD OPERATIONS -

HB 1612 by Romero

Effective
9/1/17

- Adds "controlled substances or drugs" to list of offenses for which the agency is not required to offer a civil penalty in lieu of suspension of license/permit.
- TABC can now suspend a license/permit if the basis for the suspension is a drug violation rather than first offering the option to pay a fine.

Implementation:

- Update Rule 37.61 (July)
- Update TABC County Judge's Handbook

Amends AB Code: 11.64(a)

- FIELD OPERATIONS -

HB 256 by Hernandez

Effective
9/1/17

- Allows cities (in addition to counties and OAG) to seek an injunction to abate a common nuisance under the Alcoholic Beverage Code.
- Gives cities another tool to combat BYOBs

Implementation:

- Update TABC Guide for County Clerks
- Update TABC County Judge's Handbook

Adds AB Code: 101.70(b-1)

- FIELD OPERATIONS-

SB 341 by Perry

Effective
9/1/17

- Adds offenses involving synthetic cannabinoids to the list of offenses for which a license/permit can be denied for all retail licenses/permits
- Adds possession of or allowing a person to have possession of synthetic cannabinoid on retail premises to list of prohibited activities
- This definition will make it easier to prove synthetic cannabinoid offenses at TABC hearings.

Implementation:

- Amend Rule 35.41 (September)
- Update applications
- Update Responsibility Course
- Update Industry Guide
- Update TABC County Judge's Handbook

Amends AB Code: 69.06 and 104.01

- AUDIT -

HB 1555 by Kuempel

Effective
5/26/17

- Creates exemption to allow sale of lottery tickets on the premise of a Wine & Beer Retailer's Permit that derives 30% or less of its gross receipts from the sale of alcohol.
 - Examples: grocery store w/a BG, bowling alley, golf course, some restaurants (Chuck E. Cheese's).
- Lottery determines if BG fails to meet (or exceeds) 30% threshold via checkbox on lottery application. **TABC would verify only upon a complaint or audit.**

- AGENCY -

HB 2 by Zerwas

Rider 13 in SB 1 by Nelson

**Effective
6/12/17**

- TABC may not spend appropriated money for
 - travel outside the state, other than for bona fide and documented law enforcement or investigative activities; or
 - to attend or participate in an event, training, conference, class, or similar activity outside the state.
- TABC may not accept payments from or spending authority on behalf of any trade, professional, or industry organization for any purpose or in any form, including a travel subsidy, payment of travel or other expenses for conference presenters, prepaid meals, or lodging.
- Effective for remainder of FY2017 and all of FY2018-2019 i.e., until August 31, 2019

- AGENCY OPERATIONS -

SB 533 by Nelson

Effective
9/1/17

- Requires a state agency employee or official involved in procurement or contract management to disclose any potential conflict of interest--during the procurement process or the term of a contract with a private vendor--if the contract is for the purchase of goods and services solicited through a purchase order exceeding \$25,000.
- Changes anniversary from which a former employee can accept employment with an employer with whom the employee participated in a procurement or contract negotiation. Employment is prohibited until the second anniversary of the date the contract is signed or the procurement is terminated or withdrawn whereas current statute is second anniversary of the date the employee's service with the state agency ceased.
- Requires CPA to employ a chief procurement officer for Texas and update the Contract Management Guide to include policies each state agency is required to adopt on the interactions and communications between employees of the agency and a vendor that contracts with the state agency or seeks to conduct business with the agency. *Agencies must adopt policy by January 1, 2018.*
- Increases IT commodity purchase thresholds concerning number of vendors solicited for requests for pricing. If contract is valued
 - Between \$50,000 to \$1 million (currently \$150,000), must submit to at least three vendors
 - between \$1 million and \$5 million (currently \$150,000 to \$1 million), must submit to at least six vendors.
 - More than \$5 million (currently \$1 million), an agency is prohibited from entering a contract

Implementation: Create policy on vendor communication by 1/1/18 and develop process for employees to notify of potential conflict

- EMPLOYEES-

HB 88 by Martinez

Effective
9/1/17

- Employees can take sick leave to care for a sick foster child (as well as a biological or adopted child).
- Little impact because our policies allow this already. Our policies will be updated to address an employee's right to file a claim of discrimination as added by this bill.

- EMPLOYEES-

SB 73 by Nelson

Effective
9/1/17

- Requires state agencies to adopt a policy providing clear and objective guidelines to establish under what circumstances an employee could be entitled to or granted vacation, sick and emergency leave.
- Report annually to CPA on employees granted more than 32 hours of emergency leave
- Reports quarterly to the SAO and LBB each agency employee granted 168 hours or more of leave in that quarter due to involvement in an investigation
- CPA will adopt a uniform system and accounting codes for agencies to report each type of leave in CAPPs

Implementation: amend current or create new policy regarding circumstances of employee leave and post on intranet and website (HR by August)

- RULES -

HB 1290 by Roberts

Effective
9/1/17

- Restricts a state agency from adopting a proposed rule that imposes a cost on regulated persons **unless** the agency repeals or amends a rule to reduce costs of an equal or greater amount
 - Exceptions are rules amended or created to
 - reduce a burden or responsibilities imposed on regulated persons;
 - decrease cost for compliance with the rule;
 - is necessary to protect health, safety and welfare of residents; or
 - is necessary to implement legislation.

Questions?

