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# Regulatory Efficiency Office

## Regulatory Efficiency Review

## Texas Alcoholic Beverage Commission (TABC)

### *DRAFT REDLINE AND COST BENEFIT ANALYSIS*

May 1, 2026


| | |
|---|---|
| Page 2 | Executive Summary |
| Pages 3-38 | TABC Redlines |
| Pages 39-48 | TABC Cost Benefit Analysis; Addendum |

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| *EXECUTIVE SNAPSHOT* | |
|---|---|
| **Total TABC Regulations** | 4,203 |
| **Rules Repealed and/or Amended** | 20 |
| **Total Words** | 65,782 |
| **Words Reduced** | 959 |
| **Estimated Cost Savings – low end** | $14,365,000 |
| **Estimated Cost Savings – high end** | $36,055,000 |

## Executive Summary

This redline document has been prepared using the Regulatory Efficiency Review (RER) document which was reviewed by both Texas Alcoholic Beverage Commission (TABC) and Texas Regulatory Efficiency Office (TREO). The redline (pages 3-37) contains the rules that were agreed upon for potential amendment. Deleted text shown in ~~red strikethrough~~, and added text is shown in green underline.

The estimated cost savings and word count reduction shown above have has been calculated based off implementation of the redlines. For full methodology of the cost benefit analysis, see pages 38-62.

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# TABC Regulatory Efficiency Review -- Redline

## 16 TAC § 31.2 -- State-owned Motor Vehicles

***Basis for Change:*** *Subsection (a) is required by Transportation Code § 721.003 and subsection (b) is required by Government Code § 2171.1045. However, paragraph (b)(2), which authorizes vehicle assignment to executive staff, is no longer operationally necessary as vehicles are no longer assigned to the Executive Director or Deputy Executive Director. Following stakeholder input, TABC proposes to consolidate subsection (b) by removing the executive staff assignment provision and incorporating the essential-duties standard into a single, streamlined subsection.*

**Recommended Action:** Amend --and consolidate subsection (b). As of 4/16, TABC stated that they plan to propose to consolidate subsection b, but will still allow for the assignment of vehicles to executive staff. The redline has been updated.

(a) Exemption from inscription requirements for state-owned vehicles.

(1) This subsection implements §721.003, Transportation Code, relating to exemption from inscription requirements for certain state-owned vehicles, which requires the commission to adopt a rule to be exempt from the inscription requirements of Chapter 721.

(2) The primary use of the state-owned vehicles for which an exemption is sought is the transportation of commission employees engaged in the prevention, detection, investigation and enforcement of criminal and regulatory violations of the Alcoholic Beverage Code.

(3) Not printing inscriptions on commission vehicles will: increase effectiveness of enforcement and compliance operations and activities; increase the safety of commission employees engaged in enforcement and compliance operations and activities; and, decrease the risk of damage to state-owned vehicles and property.

(b) Assignment of Vehicles.

(1) This subsection implements §2171.1045, Government Code, relating to the restrictions on assignment of state vehicles.

(2) Vehicles are assigned to commission executive staff whose essential agency duties and functions require them to have vehicles available on a regular or frequent basis to provide state-wide oversight, management and supervision of agency staff.

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(3) Pool vehicles are maintained at headquarters to reduce the cost to the state for travel required by qualified agency staff whose essential duties and functions require regular or periodic travel by vehicle.

(4) Vehicles are assigned to field operation employees whose essential agency duties and functions require daily and extensive use of vehicles and the cost to the state of providing a state-owned vehicle is less than the cost of reimbursing employees for the use of personal vehicles.

**16 TAC § 31.3 -- Petition for the Adoption of a Rule**

***Basis for Change:*** *This section implements Government Code § 2001.021. Paragraphs (a)(1)-(4) restate verbatim the eligibility criteria in § 2001.021(d)(1)-(4). Because these provisions duplicate statutory text without adding substantive guidance, they can be condensed by cross-referencing the statute directly. This eliminates redundancy and reduces the risk of inconsistency if the statute is amended.*

**Recommended Action:** Amend -- replace (a)(1)-(4) with statutory cross-reference

(a) Purpose. This section implements Government Code §2001.021 and provides procedures for any interested person (petitioner) to request the Alcoholic Beverage Commission (commission) to adopt a rule. ~~The petitioner must be:~~The petitioner must meet the eligibility requirements of Government Code § 2001.021(d).

~~(1) a resident of this state;~~

~~(2) a business entity located in this state;~~

~~(3) a governmental subdivision located in this state; or~~

~~(4) a public or private organization located in this state that is not a state agency.~~

(b) Content of Petition.

(1) The petition must be in writing. No form is required but all information must be provided, or a reason why required information cannot be provided given.

(2) The petition must contain the following:

(A) petitioner's name, address, organization or affiliation, if any, and the name of the person or entity on whose behalf the petition is filed, if different from the person submitting the petition;

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(B) a plain and brief statement about why a rule or change in an existing rule is needed, required, or desirable, including the public good to be served and any effect on those who would be required to comply with the rule;

(C) an estimate of the fiscal impact on state and local government as a result of enforcing or administering the proposed rule, an estimate of the economic impact on persons required to comply with the proposed rule, whether there may be an effect on local employment, and the facts, assumptions and methodology used to prepare estimates and impacts required by this subparagraph;

(D) a statement on the commission's authority to adopt the proposed rule;

(E) the proposed text of a new rule, or proposed changes to an existing rule; and

(F) a list of individuals, organizations or affiliations that may be interested or affected by the proposed rule, if known.

(c) Submission. A petition is submitted on the date it is received by the Executive Director. The petition must be addressed to the Executive Director, Texas Alcoholic Beverage Commission, and mailed to P.O. Box 13127, Austin, Texas 78711-3127, e-mailed to rules@tabc.texas.gov, or hand delivered to the Executive Director at commission headquarters in Austin, Texas.

(d) Review. The Executive Director will review the petition for compliance with the requirements of this section. If all requirements of this section are met, the Executive Director will bring the petition to the commission, except as provided otherwise in this section.

(e) Decision to Deny or Accept. The commission will deny a petition for rulemaking, or accept, in whole or in part, a petition for rulemaking within 60 days from the date the petition is submitted. If the commission neither denies nor accepts the petition within 60 days from the date it is submitted, agency staff will initiate the rulemaking process under Chapter 2001, Subchapter B, of the Government Code. In such case, agency staff may redraft the proposed text to conform to style and format requirements for the agency's rules.

(1) The Executive Director will notify the petitioner in writing if the petition is denied and state the reason or reasons for the denial.

(2) The commission will refer an accepted petition to agency staff to initiate the rulemaking process under Chapter 2001, Subchapter B, of the Government Code. Agency staff may redraft the proposed text to conform to style, format and policy decisions of the agency.

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(f) Repetitive petitions. The Executive Director may refuse to bring a petition for rulemaking to the commission if, within the preceding year, the commission has considered a previously submitted petition for the same rule.

### 16 TAC § 31.5 -- Public Information Act Requests

***Basis for Change:*** *This rule is not statutorily required. Subsection (a) adopts by reference the OAG's schedule of charges for copies of public information, which already applies as the default standard. Subsection (b) designates the general counsel as the public information coordinator, which does not need to be accomplished by rule. Repeal removes unnecessary regulatory text without affecting TABC's PIA obligations or operations.*

**Recommended Action:** Repeal -- entire section

~~(a) To the extent applicable, charges made for providing copies of public information by the Texas Alcoholic Beverage Commission shall be assessed in accordance with the schedule of charges maintained by the Office of the Attorney General in Title 1, Chapter 70 of the Texas Administrative Code.~~

~~(b) The general counsel or the general counsel's designee shall be the agency's public information coordinator. The public information coordinator is subject to the direction of the executive director, who is the officer for public information of the agency pursuant to Texas Government Code §552.201(a).~~

### 16 TAC § 31.6 -- Establishment of Advisory Committees

***Basis for Change:*** *This section provides the general framework for agency advisory committees under Alcoholic Beverage Code § 5.21. The three specific committees established under §§ 31.7-31.9 have expired and are recommended for repeal; This rule is not statutorily required and can be repealed without any change in legal effect. The agency may readopt the rule to establish new committees in the future.*

**Recommended Action:** As of 4/16, TABC recommended repeal of this rule.

~~(a) This rule implements Alcoholic Beverage Code §5.21, which authorizes the commission, by rule, to establish advisory committees as necessary to accomplish the purposes of the Alcoholic Beverage Code, and to meet the changing needs of the agency. Government Code Chapter 2110 applies to an advisory committee created by the commission.~~

~~(b) The commission rule establishing an advisory committee shall contain, at a minimum, the following information:~~

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~~(1) the purpose, role, and goal of the committee;~~

~~(2) composition and representation requirements;~~

~~(3) qualifications of the members, such as experience or geographic location;~~

~~(4) terms of service of committee members;~~

~~(5) any necessary training requirements; and~~

~~(6) the method the agency will use to receive public input on issues considered by the advisory committees.~~

~~(c) An advisory committee created by the commission shall not have more than nine members.~~

~~(d) The presiding officer of the commission shall appoint the members of an advisory committee.~~

~~(e) Each advisory committee shall hold at least one meeting per calendar year.~~

### 16 TAC § 31.7 -- Internal Audit Advisory Committee

***Basis for Change:*** *This committee has technically expired. The rule establishing it is permissive under Alcoholic Beverage Code § 5.21. TABC may readopt the rule if the agency decides to reconstitute the committee in the future. Repeal removes expired regulatory text.*

**Recommended Action:** Repeal -- entire section

~~(a) Pursuant to Texas Alcoholic Beverage Code § 5.21 and commission Rule 31.6, the commission hereby establishes an Internal Audit Advisory Committee ("Committee").~~

~~(b) The purpose, role, and goal of the Committee is to advise the commission on the agency's internal audit processes.~~

~~(c) The presiding officer of the commission may appoint not more than two commissioners and three members of the public to serve on the Committee. The Committee shall select from among its members a presiding officer.~~

~~(d) Each public member must either:~~

~~(1) hold an ownership interest or management position with an active TABC licensee or permittee; or~~

~~(2) hold a certified public accountant license or similar financial industry credentials.~~

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~~(e) The commission's general counsel or another commission attorney assigned by the general counsel shall provide legal counsel to the Committee.~~

~~(f) Within 60 days after the first Committee meeting, Committee members shall complete training provided by the commission's General Counsel's office regarding compliance with the Texas Public Information Act and other applicable ethics rules.~~

~~(g) The Committee shall report to the commission at the times and in the manner it determines will best assist the commission and in compliance with the Texas Open Meetings Act.~~

## 16 TAC § 31.8 -- Advisory Committee on Major Information Technology Projects

***Basis for Change:*** *This committee has technically expired. The rule establishing it is permissive under Alcoholic Beverage Code § 5.21. Repeal removes expired regulatory text. The committee may be re-established by future rulemaking if needed.*

**Recommended Action:** Repeal -- entire section

~~(a) Pursuant to Texas Alcoholic Beverage Code § 5.21 and commission Rule 31.6, the commission hereby establishes the Advisory Committee on Major Information Technology Projects ("Committee").~~

~~(b) The purpose, role, and goal of the Committee is to advise the commission on the agency's use and development of major information technology projects.~~

~~(c) The presiding officer of the commission may appoint not more than two commissioners and three members of the public to serve on the Committee. The Committee shall select from among its members a presiding officer.~~

~~(d) Each public member must either:~~

~~(1) hold an ownership interest or management position with an active TABC licensee or permittee;~~

~~(2) be a practicing attorney in the field of alcohol regulation; or~~

~~(3) have significant experience in information system technology deployment.~~

~~(e) The commission's general counsel or another commission attorney assigned by the general counsel shall provide legal counsel to the Committee.~~

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~~(f) Within 60 days after the first Committee meeting, Committee members shall complete training provided by the commission's General Counsel's office regarding compliance with the Texas Public Information Act and other applicable ethics rules.~~

~~(g) The Committee shall report to the commission at the times and in the manner it determines will best assist the commission and in compliance with the Texas Open Meetings Act.~~

## 16 TAC § 31.9 -- Public Safety Advisory Committee

***Basis for Change:*** *This committee has technically expired. The rule establishing it is permissive under Alcoholic Beverage Code § 5.21. Repeal removes expired regulatory text. The committee may be re-established by future rulemaking if needed.*

**Recommended Action:** Repeal -- entire section

~~(a) Pursuant to Texas Alcoholic Beverage Code §5.21 and commission Rule 31.6, the commission hereby establishes the Public Safety Advisory Committee ("Committee").~~

~~(b) The purpose, role, and goal of the Committee is to advise the commission on the agency's public safety initiatives.~~

~~(c) The presiding officer of the commission may appoint not more than two commissioners and three members of the public to serve on the Committee. The Committee shall select from among its members a presiding officer.~~

~~(d) Each public member must either:~~

~~(1) hold an ownership interest or management position with an active on-premises retail licensee or permittee;~~

~~(2) be a practicing attorney in the field of alcohol regulation; or~~

~~(3) have retired from a Texas statewide or a federal law enforcement agency.~~

~~(e) The commission's general counsel or another commission attorney assigned by the general counsel shall provide legal counsel to the Committee.~~

~~(f) Within 60 days after the first Committee meeting, Committee members shall complete training provided by the commission's General Counsel's office regarding compliance with the Texas Public Information Act and other applicable ethics rules.~~

~~(g) The Committee shall report to the commission at the times and in the manner it determines will best assist the commission and in compliance with the Texas Open Meetings Act.~~

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## 16 TAC § 34.4 -- Suspensions

***Basis for Change:*** *This section is required by Alcoholic Beverage Code § 11.64(a). However, the enumerated list in subsection (b)(1)-(20) largely mirrors the statutory list. Replacing the duplicative enumeration with a direct cross-reference to the Code provisions eliminates redundancy and ensures automatic consistency with any future statutory amendments. Subsections (c)-(e), which address discretionary factors, are retained.*

**Recommended Action:** Amend -- replace (b)(1)-(20) with statutory cross-reference

(a) This section implements Alcoholic Beverage Code (Code) §11.64(a), which requires the commission to adopt rules addressing when a suspension may be imposed without the opportunity to pay a civil penalty.

(b) The executive director or the executive director's designee may deny a licensee or permittee the option of paying a civil fine in lieu of a suspension of the license or permit if the licensee or permittee has violated ~~one or more of the following provisions of the Code:~~ one or more of the provisions, or committed one or more of the offenses, identified in § 11.64.

~~(1) Section 11.61(b)(14): sale to an intoxicated person by a permittee;~~

~~(2) Section 22.12: breach of the peace on the premises of a package store;~~

~~(3) Section 28.11: breach of the peace on the premises of a mixed beverage permittee;~~

~~(4) (4) Section 32.17(a)(2): refuse to allow an authorized agent or representative to come onto the premises;~~

~~(5) Section 32.17(a)(3): refuse to furnish requested information to the commission or its agents or representatives;~~

~~(6) Section 32.17(a)(7): consumption or service of alcohol on the premises during prohibited hours;~~

~~(7) Section 61.71(a)(5): sale to a minor by a licensee;~~

~~(8) Section 61.71(a)(6): sale to an intoxicated person by a licensee;~~

~~(9) Section 61.74(a)(14): sale to a minor by a licensee;~~

~~(10) Section 69.13: breach of the peace on the premises of an on-premise retail malt beverage dealer;~~

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~~(11) Section 71.09: breach of the peace on the premises of an off-premise retail malt beverage dealer;~~

~~(12) Section 101.04: refuse to allow inspection;~~

~~(13) Section 104.01(a)(4): solicitation of drinks;~~

~~(14) Section 101.63: sale to an intoxicated person;~~

~~(15) Section 106.03: sale to a minor;~~

~~(16) Section 106.06: purchase of alcohol for a minor;~~

~~(17) Section 106.15: engage in prohibited activity related to dancing by a person under 18;~~

~~(18) Chapter 105: sale or offer of sale of an alcoholic beverage during prohibited hours, or consumption or permitting consumption of an alcoholic beverage during prohibited hours;~~

~~(19) any offense relating to gambling, prostitution or trafficking of persons; or~~

~~(20) any offense relating to controlled substances or drugs.~~

(c) For the violations referenced in subsection (b) of this section, and after considering the circumstances required or allowed to be considered in this section, the executive director or the executive director's designee has discretion to determine whether to allow a licensee or permittee the option to pay a civil penalty in lieu of a suspension but is not required to allow such payment in lieu of suspension.

(d) In determining whether to deny a licensee or permittee the option to pay a civil penalty in lieu of a suspension, the executive director or the executive director's designee shall consider any aggravating or mitigating factual circumstances related to the violation, including but not limited to:

(1) the type of license or permit held by the violating licensee or permittee;

(2) the type of violation or violations charged;

(3) the licensee's or permittee's record of past violations, including the number, type and frequency of violations of the Code and of the rules of the commission; and

(4) the date the license or permit was issued.

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(e) In addition to the circumstances listed in subsection (d) of this section that must be considered in determining whether to allow a licensee or permittee the option to pay a civil penalty in lieu of a suspension, the executive director or the executive director's designee may also consider other circumstances, including but not limited to:

(1) whether the sale of alcoholic beverages constitutes the primary or partial source of the licensee or permittee's business;

(2) whether the violation was caused by intentional or reckless conduct by the licensee or permittee;

(3) whether the violation caused the serious bodily injury or death of another;

(4) whether the character and nature of the licensee's or permittee's operation were reasonably calculated to avoid violations of the Code and rules of the commission at the time of violation; and/or

(5) whether the licensee or permittee has taken action to remediate the violation and to prevent future violations.

**16 TAC § 37.5 -- Determining Population**

***Basis for Change:*** *This rule is not statutorily required. The Code Construction Act (Government Code § 311.005(3)) already defines 'population' by reference to the federal decennial census, and Government Code § 311.002 provides that the Code Construction Act applies to agency rules. This rule is therefore entirely redundant with existing statute and can be repealed without any change in legal effect.*

**Recommended Action:** Repeal -- entire section

~~For purposes of any provision of the Alcoholic Beverage Code or the commission's rules that refer to population, it shall be determined by the most recent federal decennial census.~~

**16 TAC § 39.1 -- Personal Importation**

***Basis for Change:*** *This rule is permissive. Subsection (a) identifies applicable statutory provisions and is retained. Subsection (b) essentially restates Alcoholic Beverage Code § 107.07(a) regarding tax and fee obligations and is redundant. Subsection (c) provides independent value by clarifying the meaning of 'tax stamp' in the personal importation context and is retained. Subsection (d) states that the rule cannot alter statutory limits, which is self-evident and unnecessary.*

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**Recommended Action:** Amend -- repeal subsections (b) and (d); retain (a) and (c)

(a) This chapter applies to alcoholic beverages imported into this state for personal use under the authority of Alcoholic Beverage Code §§107.07, 201.71 and 201.81.

~~(b) All alcoholic beverage containers imported into Texas for personal consumption are subject to the applicable state tax and administrative fees. These administrative fees shall be included in the posted tax rates.~~

(c) Payment of the fees and taxes must be documented by a tax stamp. For purposes of this rule, "tax stamp" means a written acknowledgement, which may be an electronic notification, documenting that the State of Texas has received payment of fees and taxes.

~~(d) Nothing in this Chapter shall be construed to alter the personal importation limits set in Code §107.07(a).~~

**16 TAC § 39.2 -- Calculation of Taxes Due**

***Basis for Change:*** *This rule is not statutorily required and restates tax rates set in Alcoholic Beverage Code §§ 201.03, 201.04, and 203.01. The metric conversion methodology is implied by statute, and the rounding provision is already authorized by Code § 107.07(g). Repeal eliminates regulatory text that duplicates existing statutory provisions without adding independent guidance.*

**Recommended Action:** Repeal -- entire section

~~(a) Alcoholic beverages may be imported for personal use are subject to the following tax rates set in the Code:~~

~~(1) Distilled spirits: $2.40 per gallon;~~

~~(2) Vinous Liquor containing less than 14 percent alcohol by volume: $0.204 per gallon;~~

~~(3) Vinous Liquor containing 14 percent or more of alcohol by volume: $0.0408 per gallon;~~

~~(4) Malt Beverages: $6.00 per 31-gallon barrel, ($0.194 per gallon); and~~

~~(5) Artificially carbonated and natural sparkling vinous liquor: $0.516 per gallon.~~

~~(b) If the alcoholic beverage is in metric containers, the amount of tax due is determined by converting the metric amount into the equivalent amount in gallons and applying the appropriate tax rate, then rounding up to the nearest quarter of a dollar, as authorized by Code §107.07(g).~~

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### 16 TAC § 39.4 -- Table of Taxes Due for Liquor

***Basis for Change:*** *This rule is not statutorily required. It directs TABC to display tax tables at ports of entry and on its website. TABC can perform this function as an operational matter without a rule mandate. Repeal removes unnecessary regulatory text.*

**Recommended Action:** Repeal -- entire section

~~A table showing the amount of tax due on various types of liquor in metric containers shall be prominently displayed at each port of entry and made available on the commission's website.~~

### 16 TAC § 33.5 -- Food and Beverage Certificate

***Basis for Change:*** *This section implements Alcoholic Beverage Code §§ 5.31 and 25.13. Two targeted amendments are recommended: (1) Reduce the record retention period in subsection (k)(4) from four years to two years, aligning with the standard TABC license renewal cycle -- this is agency discretion, not a statutory mandate; and (2) Repeal the complimentary drink valuation tracking requirement in subsections (k)(3) and (l), which creates disproportionate accounting complexity -- TABC confirmed the Comptroller performs the majority of these functions and agreed with potential repeal.*

**Recommended Action:** Amend -- reduce retention period; repeal complimentary drink tracking; modernize data submission

(a) This rule relates to §§25.13, 28.18, 32.23 and 69.16 of the Texas Alcoholic Beverage Code.

(b) The following words and terms, when used in this section, shall have the following meaning unless the context clearly indicates otherwise:

(1) Entrée--course of a meal that may include an appetizer, small plate, main dish, dessert or other similar food item.

(2) Food service--the cooking, preparing, or assembling of food on the location available for consumption at the location. Commercially pre-packaged items purchased off of the location which require no cooking or assembly do not constitute food service under this section.

(3) Food service facilities--a designated permanent portion of the licensed location where food is stored and prepared for consumption at the location.

(4) Location--the designated physical address of a premises, but also including all areas at that address where the license or permit holder may sell, serve or deliver alcoholic

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beverages for immediate consumption at the address, regardless of whether some of those areas are occupied by other businesses, as long as those businesses are contiguous.

(5) Premises--the designated area at a location that is licensed by the commission for the sale, service, or delivery of alcoholic beverages.

(6) Restaurant--a business that:

(A) operates its own permanent food service facility with commercial cooking equipment on its premises; and

(B) prepares and offers to sell multiple entrees for consumption on or off the premises.

(c) An applicant is qualified for a food and beverage certificate if the following conditions, in addition to other requirements, are satisfied:

(1) multiple entrees are available to customers; and

(2) permanent food service facilities are maintained at the location; and

(3) either:

(A) the receipts from the sale of alcoholic beverages by the license or permit holder at the location are 60 percent or less of the total receipts from the location; or

(B) the facility meets the definition of Restaurant under subsection (b)(6) of this section.

(d) The hours of operation for sale and service of food and of alcoholic beverages are the same except that food may be sold or served before or after the legal hours for sale of alcoholic beverages.

(e) If the applicant is a hotel that maintains separate area restaurants, lounges or bars, food service facilities must exist for each of the designated licensed premises.

(f) An applicant for an original food and beverage certificate shall furnish the following, as well as any other information requested by the commission to ensure compliance:

(1) the menu or, if no menu is available, a listing of the food and beverage items;

(2) hours of operation of food service and hours of operation for sale or service of alcoholic beverages;

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(3) if qualifying under subsection (c)(3)(A) of this section, sales data ~~(including complimentary drinks, as recorded pursuant to subsection (k)(3) of this section)~~ or, if not available, a projection of sales. The sales data or projection of sales should include sufficient breakdown of revenues of food, alcoholic beverages, and all other sales categories at the location (e.g., tickets, merchandise, retail goods).

(4) if qualifying under subsection (c)(3)(B) of this section, a list of commercial cooking equipment used in food service; and

(5) copies of floor plans of the location indicating the licensed premises and permanent areas devoted primarily to food service.

(g) Applicants for renewal of food and beverage certificates shall submit sales data described in subsection (k) of this section. The commission may request additional information or documentation to indicate that the licensed location has permanent food service facilities for the preparation and service of multiple entrees.

(h) The commission may review the operation at the location to determine that food service with food service facilities for the preparation and service of multiple entrees is maintained. In doing so the commission may review such items as required in the original or renewal application as well as advertising, promotional items, changes in operations or hours, changes in floor plans, prominence of food items on the menu as compared to alcoholic beverages, name of the business at the location, number of transactions with food components, copies of city or county permits or certificates relating to the type of business operation, and any other item deemed necessary or applicable.

(i) Failure to provide documentation requested or accurately maintain required records is prima facie evidence of non-compliance.

(j) In verifying that food service is being maintained at the location, the commission may examine all books, papers, records, documents, supplies and equipment of the certificate holder.

(k) The following recordkeeping requirements apply to certificate holders:

(1) records must be maintained to reflect separate totals for alcoholic beverage sales or service, food sales, and all other sales categories at the location that, when combined, make up the location's total sales;

(2) purchase invoices must be maintained to reflect the total purchases of alcoholic beverages, food and all other purchase categories at the location;

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~~(3) complimentary alcoholic beverages must be recorded and included in the total alcoholic beverage sales as if they were sold and clearly marked as being complimentary; and~~

(4) all records must be maintained for ~~four years~~two years and made available to authorized representatives of the commission upon request.

(l) In considering alcoholic beverage sales, the dollar value of complimentary drinks shall be added to total sales or service of alcoholic beverages in determining the percentage of alcoholic beverage sales or service from the licensed premises.

(m) In determining the permanent food service facilities requirement for businesses qualifying under subsection (c)(3)(A) of this section, the gross receipts of all business entities sharing the location will be considered. For audit purposes, it shall be the responsibility of the food and beverage certificate holder to provide financial and accounting records related to food, alcohol, and other major sales categories of all business entities sharing the location. For audit purposes, if such information that is provided is deemed insufficient to determine if a license or permit holder qualifies for issuance of a food and beverage certificate at the location, the computation and determination of the percentage of alcohol sales or service fees to total gross receipts at the licensed location may be based upon any available records of information.

**16 TAC § 34.3 -- Offenses Against the General Welfare; Place or Manner Violations**

***Basis for Change:*** *This section implements Alcoholic Beverage Code §§ 11.61(b)(7), 61.71(a)(17), 101.31, and 101.67. TABC proposes to provide additional clarity on the 'reasonable care' standard in subsection (b)(3) through rule changes rather than informal guidance documents, to avoid ad hoc rulemaking concerns. A new subsection (e) is added providing non-exclusive examples of preventive measures that may demonstrate reasonable care, including employee training programs, operational policies, and technological measures. This preserves all mandatory statutory prohibitions while reducing compliance uncertainty.*

**Recommended Action:** Amend -- add new subsection (e) clarifying reasonable care standard

(a) This rule relates to §§11.46(a)(8), 11.61(b)(7), 61.42(a)(3) and 61.71(a)(16) of the Alcoholic Beverage Code.

(b) A licensee or permittee violates the provisions of the Code cited in subsection (a) of this section if any of the offenses listed in subsection (c) of this section are committed:

(1) by the licensee or permittee in the course of conducting its alcoholic beverage business; or

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(2) by any person on the licensee or permittee's licensed premises; and

(3) the licensee or permittee knew or, in the exercise of reasonable care, should have known of the offense or the likelihood of its occurrence and failed to take reasonable steps to prevent the offense.

(c) The offenses that are the subject of this rule include:

(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 trafficking or smuggling of a person or receipt of benefit from participating in a human trafficking offense described in Chapter 20A of the Texas Penal Code or 18 U.S.C. §§1581-1592;

(4) any sexual offense described in Chapter 21 of the Texas Penal Code;

(5) any assaultive offense described in Chapter 22 of the Texas Penal Code;

(6) any arson, criminal mischief or property damage or destruction offense described in Chapter 28 of the Texas Penal Code;

(7) any theft offense described in Chapter 31 of the Texas Penal Code;

(8) any fraud offense described in Chapter 32 of the Texas Penal Code;

(9) any money laundering offense described in Chapter 34 of the Texas Penal Code;

(10) any bribery offense described in Chapter 36 of the Texas Penal Code;

(11) any obstruction offense described in Chapter 38 of the Texas Penal Code;

(12) any disorderly conduct or related offenses described in Chapter 42 of the Texas Penal Code;

(13) any public indecency offense described in Chapter 43 of the Texas Penal Code;

(14) any weapons offense described in Chapter 46 of the Texas Penal Code;

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

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

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(17) any law, regulation or ordinance of the state or federal government or of the county 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; and

(18) any solicitation of any person to buy drinks for consumption by the retailer or any of the retailer's employees in violation of §104.01 of the Alcoholic Beverage Code.

(d) This rule does not constitute the exclusive means by which §§11.46(a)(8), 11.61(b)(7), 61.42(a)(3) and 61.71(a)(16) may be violated.

(e) In determining whether a licensee or permittee exercised reasonable care under subsection (b)(3) of this section, the commission may consider, among other relevant factors:

(1) whether the licensee or permittee maintained and enforced written policies and procedures designed to prevent offenses on the premises;

(2) whether the licensee or permittee provided regular training to employees on identifying and responding to potential offenses, including but not limited to recognizing signs of intoxication, verifying age identification, and de-escalation techniques;

(3) the nature and extent of security measures employed at the premises, including staffing, lighting, and monitoring appropriate to the size, location, and operational profile of the establishment;

(4) whether the licensee or permittee maintained and utilized security monitoring technology, including but not limited to video surveillance systems with adequate coverage, retention, and accessibility for law enforcement review;

(5) the licensee or permittee's history of cooperation with law enforcement and commission investigators; and

(6) whether the licensee or permittee took prompt corrective action upon learning of an offense or the likelihood of its occurrence.

(f) The factors listed in subsection (e) are non-exclusive. The presence or absence of any single factor is not dispositive of whether a licensee or permittee exercised reasonable care.

**16 TAC § 45.121 -- Advertising Standards Required**

***Basis for Change:*** *This section implements Alcoholic Beverage Code §§ 108.01-108.09. The current rule enumerates specific advertising media ('radio broadcast, newspaper, periodical, publication, sign, outdoor advertisement, internet, mail, e-mail'), which risks regulatory*

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*obsolescence as new communication platforms emerge. Replacing the enumerated list with medium-neutral language ('any medium or channel of communication') ensures comprehensive coverage of current and future advertising platforms without requiring repeated rulemaking.*

**Recommended Action:** Amend -- replace enumerated media list with medium-neutral language

No person, directly or indirectly, or through an affiliate, shall publish or disseminate or cause to be published or disseminated ~~by radio broadcast, or in any newspaper, periodical, or other publication, or by any sign or outdoor advertisement, or any other printed or graphic matter, including via the internet,~~through any medium or channel of communication any advertisement of alcoholic beverages if such advertisement is in this state, is calculated to induce sales in this state, or is disseminated ~~by mail or e-mail~~ in this state, unless such advertisement is in conformity with this chapter. This chapter does not apply to the publisher ~~of any newspaper, periodical or other publication, or radio broadcaster,~~or operator of any communication medium unless such publisher ~~or radio broadcaster~~or operator is a permittee.

**16 TAC § 33.40 -- General Provisions (Bonds)**

***Basis for Change:*** *This section implements Alcoholic Beverage Code §§ 11.01-11.49 and 61.01-61.42 under general rulemaking authority of § 5.31. Two permissive provisions are amended: (1) Subsection (d) requiring all bonds to be 'payable in Travis County' is an administrative convenience, not a statutory requirement -- amended to allow bonds payable in any Texas county, reducing barriers to surety company participation; (2) Subsection (i)(2) requiring banks/credit unions to have a physical facility in Texas is an anachronistic barrier predating digital banking -- amended to allow any FDIC-insured or NCUA-insured institution regardless of physical Texas presence, expanding the competitive pool of surety alternatives.*

**Recommended Action:** Amend -- modernize Travis County requirement and in-state physical facility requirement

(a) This rule applies to conduct surety bonds, performance bonds, excise tax bonds, and bonds for alternating brewery proprietorships and contract brewing arrangements ("bonds").

(b) Submission of Bond with Application.

(1) When required by the Alcoholic Beverage Code to submit a bond, an applicant for an original or renewal license or permit shall submit with its license or permit application the required bond or alternative form of surety, as authorized under this section.

(2) Failure to submit the necessary bond or alternative form of surety in proper form will result in denial of the application.

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(c) A bond required under the Alcoholic Beverage Code must be executed only on forms prescribed by the TABC with the licensee or permittee as principal, a qualified surety company doing business in this state as surety, and the state as payee.

~~(d) All bonds shall be payable in Travis County.~~

(d) All bonds shall be payable to the State of Texas.

(e) A license or permit holder shall obtain, submit, and maintain a separate bond for each license or permit it holds.

(f) A licensee or permittee required to furnish a bond under this section may furnish, in lieu of all or part of the amount of the bond required, one or more certificates of deposit or savings accounts assigned to the state or one or more letters of credit. If an assignment of a certificate of deposit, savings account, or letter of credit is furnished in lieu of a bond, the executive director or their designee shall keep it in the agency's possession. Interest earned on a certificate of deposit or savings account is not subject to the assignment and remains the property of the owner of the certificate of deposit or savings account.

(g) A certificate of deposit or savings account furnished in lieu of a bond by a licensee or permittee must be assigned to the state, in a manner approved by the executive director or their designee, to secure payment to the state.

(h) A letter of credit furnished in lieu of a bond by a licensee or permittee must be on a form approved by the executive director or their designee and contain any conditions required by the executive director to secure payment to the state.

(i) Qualifications of Surety Company.

(1) A surety company, to qualify to provide bonds under this subchapter, must be licensed by this state and in "good standing" with the State Board of Insurance, Comptroller of Public Accounts, Secretary of State, and any other regulatory agencies with jurisdiction over its affairs.

(2) In addition to the requirements of Alcoholic Beverage Code §§ 11.11 and 61.13, a bank or credit union must ~~have a physical facility in this state to accept cash deposits, make cash advances to customers and carry out day-to-day operations within this state.~~be insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Administration (NCUA) and be authorized to transact business in this state.

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(j) Each bond required by this subchapter must cover the permit or license period and must be maintained until it is released or forfeited or, if it is a bond required by §33.45(b), until it is terminated by the surety pursuant to Alcoholic Beverage Code §11.71.

(k) Release of Surety.

(1) Upon expiration of the license or permit, its voluntary cancellation, or upon the applicant's subsequent approval for exemption from the surety requirement, the licensee or permittee may request the release and return of the security supporting their license or permit.

(2) The release of the surety will not be unreasonably withheld; however, the surety company, bank, or credit union is not released from its obligation until it receives written notice of the release from the commission.

(3) The executive director may not release a surety bond until the surety company has paid and discharged in full all of its liabilities on the bond to the state as of the date of cancellation.

(l) General Provisions regarding Bond Forfeiture.

(1) When a permit or license is revoked, the commission shall notify the permittee or licensee in writing of its intent to seek forfeiture of the bond.

(2) Upon entry of a final order against the permittee or licensee or upon waiver of hearing by the permittee or licensee, the commission shall notify the surety company to remit to the state the full amount of the surety required within ten days after notification.

(m) For purposes of this subchapter, an order issued pursuant to an agreement of the parties in which the permittee or licensee waives its right to a hearing is a final adjudication of the violation that is the subject of the agreement and order.

(n) Violations of the Code or commission rules by the legal entity in the name of which a bond or other surety is held or by any of its officers, directors, or partners are counted toward and may result in cancelation, forfeiture, or exemption from the requirement to post a bond or other surety.

(o) In a joint venture, regardless of the type of legal entity formed, prior violations by any participant in the joint venture will disqualify the joint venture from exemption from the requirement to post a bond or other surety.

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(p) Neither the bondholder nor any officer, director, or partner of a bondholding entity may be granted a new license or permit until a forfeited bond or other surety is paid.

(q) The commission may seek forfeiture of a bond due to cancellation of the license or permit for any reason, including cancellation for multiple violations of Alcoholic Beverage Code §§102.31 and 102.32.

**16 TAC § 34.2 -- Schedule of Sanctions and Penalties for Health, Safety and Welfare Violations**

***Basis for Change:*** *This section implements Alcoholic Beverage Code §§ 11.61, 11.64, 61.71, 11.67, and 1.04 under general rulemaking authority of § 5.31. Subsection (a) creates ambiguity regarding the relationship between suspension and monetary penalties by stating each sanction 'includes an optional monetary penalty of $300 per day of suspension.' The amendment clarifies that the Commission may assess suspension, monetary penalties, or both, and specifies the applicable decision criteria. The attached Figure 16 TAC § 34.2(e) should be updated separately to group similar violation categories for improved clarity.*

**Recommended Action:** Amend -- clarify monetary penalty application in subsection (a)

(a) An act or failure to act that results in a violation of the Code or rules that represents a threat to the public health, safety, or welfare will be assessed sanctions and penalties according to Figure 16 TAC §34.2(e) and/or a license or permit suspension or cancellation. ~~Each sanction in Figure 16 TAC §34.2(e) other than cancellation includes an optional monetary penalty of $300 per day of suspension.~~ For each sanction in Figure 16 TAC §34.2(e) other than cancellation, the Commission may assess a license or permit suspension or a monetary penalty of $300 per day of suspension in lieu of or in addition to the suspension. In determining the appropriate sanction, the Commission shall consider the nature and severity of the violation, the violator's history of compliance, and any other relevant aggravating or mitigating circumstances.

* As of 4/16, TABC noted this language needs work. TREO altered the language slightly but defers to TABC for the final change.

(b) The list of violations in Figure 16 TAC §34.2(e) is nonexclusive; the absence of a statute or rule from the chart does not limit the commission's statutory authority to enforce compliance with the Code and its rules by assessing penalties.

(c) Violations of Code §§11.61(b)(7), 32.17(a)(8), and 61.71(a)(16), and §34.3 of this title, which are not listed in Figure §34.2(e), will be assessed sanctions based upon all relevant facts and circumstances.

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(d) For a contested case brought under subchapters C and D of the Administrative Procedure Act or an investigation or violation referred to the legal services division of the commission for resolution, the sanctions and penalties in Figure §34.2 may be used as a guideline but adherence is not required.

(e) Nothing in this rule shall be construed to limit the commission's authority to suspend or cancel a license or permit under §§11.38, 11.61, 32.17, 61.71, 201.075, or any other provision of the Code authorizing suspension or cancellation of a license or permit.Attached Graphic

**16 TAC § 34.10 -- Sanctions for Regulatory Violations**

***Basis for Change:*** *This section implements Alcoholic Beverage Code §§ 11.61, 11.64, 61.71, and 11.67 under general rulemaking authority of § 5.31. Four amendments are recommended: (1) A new subsection (i) formalizes TABC's existing warning-first practice for first-time, non-willful violations in the $250 penalty tier where no public safety risk exists; (2) Subsection (c) is amended to specify that deviations from the penalty chart in contested cases should be based on documented aggravating or mitigating factors; (3) Subsection (g) is amended to require Penalty Policy review every four years instead of seven, reflecting the rapid evolution of the alcohol industry; (4) Violation categories in the attached Figure should be consolidated into broader groupings (to be addressed in a separate figure update).*

**Recommended Action:** Amend -- add warning system (new (i)); enhance contested case clarity (c); accelerate review cycle (g)

(a) Regulatory violations of listed statutory and rule provisions will be assessed a base penalty of $250, $500, or $1,000 as shown in Figure §34.10(g). Base penalties may be augmented or discounted based upon the number of violations and other circumstances surrounding the violation, according to the commission Penalty Policy in effect on the date the violation occurred or on the first date the violation occurred, if it is a violation that is ongoing in nature.

(b) The penalty chart in Figure §34.10 is non-exclusive; the absence of a statute or rule from the chart does not limit the commission's statutory authority to enforce compliance with the Code and its rules by assessing administrative penalties.

(c) For a contested case brought under subchapters C and D of the Administrative Procedure Act or an investigation or violation referred to the legal services division of the commission for resolution, the sanctions and penalties in Figure §34.10 may be used as a guideline but adherence is not required. Any deviation from the penalty chart shall be based on documented aggravating or mitigating factors, including but not limited to: prior violation history, economic harm, the respondent's cooperation with the investigation, and remedial measures taken by the respondent.

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*As of 4/16, TABC noted this language must be reviewed with enforcement attorneys. TREO has left it unchanged for now but defers to TABC for final change.

(d) Nothing in this rule shall be construed to limit the commission's authority to suspend or cancel a license or permit under §§11.38, 11.61, 32.17, 61.71, 201.075, or any other provision of the Code authorizing suspension or cancellation of a license or permit.

(e) The number of days of license or permit suspension offered to the respondent in lieu of the penalty shall be commensurate with the penalty assessed under this section and calculated according to the commission Penalty Policy in effect on the date the violation occurred or on the first date the violation occurred, if it is a violation that is ongoing in nature.

(f) The Penalty Policy shall be publicly available and published on the commission's web site.

(g) The commission shall review the Penalty Policy and update or revise it as necessary at least once every ~~seven (7)~~four (4) years.

(h) Wholesalers who violate Alcoholic Beverage Code §102.33 will be assessed a base penalty of $250 as shown in Figure §34.10(g), but this sanction may be augmented or discounted based upon all relevant facts and circumstances, including the factors listed in Alcoholic Beverage Code §102.33(d).

(i) For first-time violations in the $250 base penalty tier where:

(1) the violation does not pose an immediate risk to public safety;

(2) the violation was not willful or the result of reckless conduct; and

(3) the respondent has no prior violations of the same or a substantially similar provision within the preceding 24 months,

The commission may issue a written warning in lieu of assessing a penalty. The warning shall require the respondent to take corrective action within 30 days. Failure to complete corrective action within the specified period, or a repeat violation of the same or substantially similar provision within 24 months of the warning, shall result in assessment of the applicable penalty under this section.

*As of 4/16, TABC noted this language must be reviewed with ENF and Legal. TREO has left it unchanged for now but defers to TABC for final change.

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## 16 TAC § 34.20 -- Attribution of Actions of Employee to License or Permit Holder

***Basis for Change:*** *This section implements Alcoholic Beverage Code §§ 11.61, 61.71, and 11.49 under general rulemaking authority of § 5.31. Three amendments are recommended: (1) Extend the affidavit filing deadline in subsection (a) from 10 days to 30 days after receipt of administrative notice of violation, reducing forfeiture risk for small business owners; (2) Amend subsection (f)(5) to explicitly authorize electronic recordkeeping, digital signatures, and cloud-based storage, eliminating redundant paper filing requirements; (3) Amend subsection (f)(3) to direct TABC to publish a model compliance policy template that creates a presumption of compliance when adopted, reducing legal consultation costs for small operators.*

**Recommended Action:** Amend -- extend affidavit deadline; authorize electronic records; add model policy

(a) A license or permit holder who claims that the actions of an employee are not attributable to the license or permit holder under Code §106.14(a) must provide to the commission, not later than ~~10 days~~30 days after receipt of an administrative notice of violation, an affidavit indicating that the license or permit holder was in compliance with the requirements of Code §106.14(a) at the time of the violation for which the administrative notice was issued. At a hearing in which the license or permit holder claims the benefits of Code §106.14(a), the license or permit holder may be required to present additional evidence to support such claim.

(b) If an employee performs an action described in paragraphs (1) or (2) of this subsection at a time when the employee does not possess a currently valid seller server certificate, then the action of the employee does not meet the requirements of Code §106.14(a)(2) and therefore shall be attributable to the license or permit holder.

(1) The employee sells, serves, dispenses or delivers an alcoholic beverage to:

(A) a person who is not a member of a private club on the club premises;

(B) a minor; or

(C) an intoxicated person.

(2) The employee allows consumption of an alcoholic beverage by:

(A) a person who is not a member of a private club on the club premises;

(B) a minor; or

(C) an intoxicated person.

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(c) Proof by the commission that an employee performed an action described in paragraph (1) or (2) of this subsection on three or more occasions within a 12-month period shall create a rebuttable presumption that the license or permit holder has indirectly encouraged a violation of the law within the meaning of Code §106.14(a)(3). The rebuttable presumption is created regardless of whether the employee performing the action described in paragraph (1) or (2) of this subsection on a second or subsequent occasion is the same person.

(1) An employee sold, served, dispensed or delivered an alcoholic beverage to:

(A) a person who is not a member of a private club on the club premises;

(B) a minor; or

(C) an intoxicated person.

(2) An employee allowed consumption of an alcoholic beverage by:

(A) a person who is not a member of a private club on the club premises;

(B) a minor; or

(C) an intoxicated person.

(d) For purposes of satisfying the condition precedent set forth in subsection (c) of this section, proof shall be demonstrated by:

(1) producing final orders issued by the commission or a court of competent jurisdiction finding that the license or permit holder violated Code §§2.02, 11.61(b)(14), 32.17(a)(1), 61.71(a)(6) or 106.13(a) on two past occasions; and

(2) establishing a prima facie case that an employee of the license or permit holder violated Code §§2.02, 11.61(b)(14), 32.17(a)(1), 61.71(a)(6) or 106.13(a) on a third or subsequent occasion.

(e) For purposes of subsection (d) of this section, all incidents offered to satisfy the condition precedent set forth in subsection (c) of this section shall be for the same type of offense and shall have occurred within a 12-month period as calculated from the dates the incidents occurred.

(f) There is a rebuttable presumption that a license or permit holder has indirectly encouraged a violation of the law within the meaning of Code §106.14(a)(3) if the commission presents sufficient proof that a license or permit holder fails to meet any of the standards set forth in paragraphs (1) - (5) of this subsection.

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(1) The license or permit holder requires each employee to present a seller server certificate within 30 days of his initial employment date.

(2) The license or permit holder requires each employee to maintain a currently valid seller server certificate.

(3) The license or permit holder adopts written policies and procedures that are designed to prevent, and that affirm a strong commitment by the license or permit holder to prohibit: The commission shall publish and maintain a model written policy template that license or permit holders may adopt to satisfy the requirements of this paragraph. Adoption of the commission's model policy creates a rebuttable presumption of compliance with this paragraph.

(A) the sale, service, dispensation or delivery of an alcoholic beverage to:

(i) a person who is not a member of a private club on the club premises;

(ii) a minor; or

(iii) an intoxicated person; and

(B) the consumption of an alcoholic beverage by:

(i) a person who is not a member of a private club on the club premises;

(ii) a minor; or

(iii) an intoxicated person.

(4) The license or permit holder ensures that all employees have read and understood the license or permit holder's policies and procedures described in paragraph (3) of this subsection.

(5) The license or permit holder maintains records for at least one year after the date employment was terminated that show that each employee read and understood the license or permit holder's current policies and procedures described in paragraph (3) of this subsection. Records may be maintained in electronic format, including digital signatures and cloud-based storage systems, provided such systems maintain adequate data integrity, including audit trails, tamper-resistance, and accessibility for commission inspection.

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(g) For purposes of this section, "employee" includes all persons paid by a license or permit holder to sell, serve, dispense, or deliver alcoholic beverages or to immediately manage, direct, supervise or control the sale or service of alcoholic beverages.

(h) At a hearing in which the license or permit holder asserts the affirmative defense established in Code §106.14(a), the commission may present evidence to establish a rebuttable presumption under this section. If the evidence is sufficient to establish a prima facie case, the burden of persuasion in the proceeding shifts to the license or permit holder to show that it has not indirectly encouraged a violation of the law within the meaning of Code §106.14(a)(3).

(i) The rebuttable presumptions authorized in this section are not the exclusive means by which the commission may establish that a license or permit holder has indirectly encouraged a violation of the law within the meaning of Code §106.14(a)(3).

(j) This section applies to contested cases under the Administrative Procedure Act and to complaints or violations referred to the legal division of the commission for resolution.

**16 TAC § 50.17 -- Application for Primary Internet-Based Seller Server School Certificate**

***Basis for Change:*** *This section implements Alcoholic Beverage Code §§ 106.14 and 5.38 under general rulemaking authority of § 5.31. Six amendments are recommended: (1) Consolidate branch certificate requirements in subsections (j), (k), and (l) to eliminate the requirement for separate certificates for each domain or mobile platform under common ownership; (2) Extend the domain update timeline in subsection (i) from 24 hours to 10 business days; (3) Narrow the background check scope in subsection (b) to controlling owners, executive officers, and instructors with student contact; (4) Accept standardized third-party security certifications under subsection (f) in lieu of independent verification; (5) Simplify redirect disclosure requirements in subsection (m) with a single standardized disclosure statement; (6) Add explicit requirement for fully digital application processing.*

*As of 4/23, TABC noted change may require a contract amendment with the vendor they use for seller server training programs. TREO has left it unchanged for now but defers to TABC for final change.

**Recommended Action:** Amend -- consolidate branch certificates; extend timelines; modernize processes

(a) An applicant for an original or renewal primary internet-based seller server school certificate must complete all sections of the application on forms provided by the commission.

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(b) An applicant for an original certificate or change of ownership for an internet-based seller server school must disclose all individual owners, individuals and legal entities having an ownership interest, and all officers, directors, managers, and instructors. Criminal history background checks under paragraph (3) are required only for individuals with a controlling ownership interest (greater than 25 percent), executive officers (including the chief executive officer, chief financial officer, and chief operating officer), and instructors who directly interact with students.

(1) A legal entity must provide its formation and registration documents and must be authorized to transact business in this state.

(2) A personal history sheet must be completed and submitted with the application for each individual disclosed on the application.

(3) An individual required to submit a personal history sheet must at the same time submit an authorization for a criminal history background check.

(4) Additional information may be required by the commission to verify ownership or qualifications of the applicant.

(c) The applicant must sign and verify that:

(1) the applicant has authority to act on behalf of all owners;

(2) the applicant has personally completed or reviewed the application and has personal knowledge of and is responsible for its content;

(3) all parts of the application that apply are complete;

(4) each fact, disclosure, and statement made in the application is true and correct at the time the application is submitted;

(5) the applicant acknowledges that an application for a certificate is a government document and is subject to verification by the commission; and

(6) the applicant acknowledges that providing false or misleading information or omitting a material fact may result in the refusal of the application, cancellation of a certificate, or criminal prosecution.

(d) Incomplete applications or applications submitted without required fees will neither be accepted for processing nor returned to the applicant.

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(e) An applicant must:

(1) keep an exact copy of the application submitted to the commission; and

(2) complete and correct any deficiencies within 10 business days after being notified of the deficiency.

(f) An applicant for an internet-based seller server school certificate must verify that the security measures implemented and maintained by the school meet state and federal standards for the transmission and protection of personal identification information and financial information of individuals accessing the website. A current, valid SOC 2 Type II, PCI DSS, or ISO 27001 certification shall be accepted as sufficient evidence of compliance with this subsection.

(g) The presentation and course progress platform used by an internet-based seller server school must be reviewed and approved by the commission to ensure:

(1) the course of instruction contains all topics required by the mandatory curriculum; and

(2) each topic must be completed before the next topic may be accessed.

(h) An applicant for a primary internet-based training school certificate must designate a primary domain and must list:

(1) all domains the school uses to provide any course of instruction that includes the mandatory curriculum;

(2) all domains under common ownership with the school that redirect students to the primary designated domain or to any other domain under common ownership with the designated primary domain; and

(3) all domains, whether or not under common ownership, with which the school has a contractual relationship to redirect students to the designated primary domain or to any domain under common ownership.

(i) The applicant must agree to update the list required by subsection (h) of this section within ~~24 hours~~10 business days of a change during the term of the certificate and failure to keep the list current is grounds for cancellation of the primary internet-based training school certificate.

~~(j) A primary internet-based training school must obtain a branch internet-based training school certificate for each domain that is under common ownership with the designated primary domain but that offers a different course of instruction from that offered at the designated primary domain.~~

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(j) A primary internet-based training school certificate covers all domains and delivery platforms under common ownership. The primary certificate holder shall notify the commission of any new domain or delivery platform within 10 business days of deployment through an online notification system maintained by the commission.

~~(k) A primary internet-based training school is not required to obtain a branch internet-based or branch mobile application training school certificate for a domain that is under common ownership with the designated primary domain but that either merely redirects students to the designated primary domain or to another domain that is under common ownership with the primary domain.~~

~~(l) A primary internet-based training school is required to obtain:~~

~~(1) a branch mobile application training school certificate for each delivery platform that is under common ownership with the designated primary internet-based program. This includes, but is not limited to, programs designed for specific mobile devices or custom programming as a delivery platform for the mandatory curriculum and internet-based testing; or~~

~~(2) a branch internet-based training school certificate for each delivery domain that is under common ownership with the designated primary internet-based program but provides a different course of instruction than that which is approved on the designated primary domain.~~

~~(m) A primary internet-based training school must require that before any domain redirects a student to the designated primary domain or to any domain under common ownership with it, and before charging the student, the redirecting domain must inform the student:~~

(k) Before any domain redirects a student to the designated primary domain or to any domain under common ownership, the redirecting domain must display a standardized disclosure statement approved by the commission informing the student of the redirect, the identity of the school providing instruction, and the student's right to decline the redirect without incurring fees.

~~(1) that he will be transferred to another site;~~

~~(2) of the name of the school that will actually provide the course of instruction;~~

~~(3) of the name of the school that will appear on his certificate upon successful completion of the course;~~

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~~(4) that the school to which he will be redirected will solicit private, personally identifiable information from the student; and~~

~~(5) that the student may refuse to be transferred without incurring fees.~~

(l) The commission shall maintain a fully digital application system that retains prior application data for renewals, accepts electronic signatures, and allows digital document submission for all materials required under this section.

## 16 TAC § 50.20 -- Application for Branch In-House Seller Server School Certificate

***Basis for Change:*** *This section implements Alcoholic Beverage Code §§ 106.14 and 5.38 under general rulemaking authority of § 5.31. Subsections (b)-(l) (classroom-based) and (m)-(y) (internet/mobile) contain nearly identical requirements. Six amendments are recommended: (1) Consolidate duplicative parallel subsections into a unified framework with delivery-mode distinctions addressed through checkboxes rather than separate rule text; (2) Streamline background check requirements by authorizing TABC to access existing results from the primary school application; (3) Authorize batch branch applications for multi-location applicants; (4) Extend deficiency correction timeline from 10 to 15 business days; (5) Add expedited approval for compliant certificate holders; (6) Explicitly authorize fully electronic processing.*

*As of 4/23, TABC noted change 3 may require a contract amendment with the vendor they use for seller server training programs. TREO has left it unchanged for now but defers to TABC for final change.

**Recommended Action:** Amend -- consolidate duplicative subsections; modernize application processes

(a) Subsections (b) - (l) of this section apply to applications for branch classroom-based in-house seller server school certificates. Subsections (m) - (y) of this section apply to applications for branch internet-based in-house or branch mobile application in-house seller server school certificates.

(b) An applicant for an original classroom-based in-house branch seller server school certificate must be an applicant for or currently hold a primary in-house seller server school certificate.

(c) An applicant for a branch classroom-based in-house seller server school certificate renewal or change of ownership must hold a current primary in-house seller server school certificate.

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(d) An applicant may submit one or more applications for a branch classroom-based in-house seller server school certificate~~, but each application must be separately completed and submitted on forms provided by the commission.~~. Applications may be submitted individually or as a single master application with branch-specific addenda, on forms provided by the commission.

(e) The owners, shareholders, officers and directors of the primary in-house seller server school and the branch classroom-based in-house seller server school must be the same.

(f) The application for a branch classroom-based in-house seller server school certificate must designate:

(1) a certified trainer responsible for the oversight, operation, training, and compliance at the branch classroom-based in-house seller server school; and

(2) an individual responsible for the day-to-day operations and management of the branch classroom-based in-house seller server school.

(g) A personal history sheet must be completed and submitted with the application for each trainer and responsible individual if the individual has not previously provided a personal history sheet with the original or renewal application for the primary in-house seller server school.

(h) An individual required to submit a personal history sheet must at the same time submit an authorization for a criminal history background check. The commission may access existing background check results from the primary school application database in lieu of requiring a new authorization where the individual's most recent background check was completed within the preceding 12 months.

(i) Additional information may be required by the commission to verify ownership or qualifications of an applicant or individual.

(j) The applicant must sign and verify that:

(1) the applicant has authority to act on behalf of all owners;

(2) the applicant has personally completed or reviewed the application and has personal knowledge of and is responsible for its content;

(3) all parts of the application that apply are complete;

(4) each fact, disclosure, and statement made in the application is true and correct at the time the application is submitted;

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(5) the applicant acknowledges that an application for a certificate is a government document and is subject to verification by the commission; and

(6) the applicant acknowledges that providing false or misleading information or omitting a material fact may result in the refusal of the application, cancellation of a certificate, or criminal prosecution.

(k) Incomplete applications or applications submitted without required fees will neither be accepted for processing nor returned to the applicant.

(l) An applicant must:

(1) keep an exact copy of the application submitted to the commission; and

(2) complete and correct any deficiencies within ~~ten business days~~fifteen business days after being notified of the deficiency.

(m) A branch internet-based in-house training school certificate is required for each domain that offers a different course of instruction from the course of instruction approved on the designated primary domain.

(n) A branch mobile application in-house training school certificate is required for each delivery platform supported on mobile phones, PDAs, tablets or other delivery device approved by the commission. For a branch mobile application seller server school:

(1) the mandatory curriculum may be completed with or without Internet access;

(2) the Commission Standard Competence Test and all unit testing must be completed through an internet or intranet connection; and

(3) the Commission Standard Competence Test and all unit testing may not be stored in the mobile application nor on any device not directly managed by the Primary Seller Server Training School.

(o) An applicant for an original internet-based or mobile application in-house branch seller server school certificate must be an applicant for or currently hold a primary in-house seller server school certificate.

(p) An applicant for an internet-based or mobile application in-house branch seller server school certificate renewal or change of ownership must hold a current primary in-house seller server school certificate.

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(q) An applicant may submit one or more applications for a branch internet-based or mobile application in-house seller server school certificate~~, but each application must be separately completed and submitted on forms provided by the commission.~~. Applications may be submitted individually or as a single master application with branch-specific addenda, on forms provided by the commission.

(r) The owners, shareholders, officers and directors of the primary in-house seller server school and the branch internet-based or mobile application in-house seller server school must be the same.

(s) The application for a branch internet-based or mobile application in-house seller server school certificate must designate:

(1) a certified trainer responsible for the oversight, operation, training, and compliance at the branch in-house seller server school; and

(2) an individual responsible for the day-to-day operations and management of the branch in-house seller server school.

(t) A personal history sheet must be completed and submitted with the application for each trainer and responsible individual if the individual has not previously provided a personal history sheet with the original or renewal application for the primary in-house seller server school.

(u) An individual required to submit a personal history sheet must at the same time submit an authorization for a criminal history background check. The commission may access existing background check results from the primary school application database in lieu of requiring a new authorization where the individual's most recent background check was completed within the preceding 12 months.

(v) Additional information may be required by the commission to verify ownership or qualifications of an applicant or individual.

(w) The applicant must sign and verify that:

(1) the applicant has authority to act on behalf of all owners;

(2) the applicant has personally completed or reviewed the application and has personal knowledge of and is responsible for its content;

(3) all parts of the application that apply are complete;

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(4) each fact, disclosure, and statement made in the application is true and correct at the time the application is submitted;

(5) the applicant acknowledges that an application for a certificate is a government document and is subject to verification by the commission; and

(6) the applicant acknowledges that providing false or misleading information or omitting a material fact may result in the refusal of the application, cancellation of a certificate, or criminal prosecution.

(x) Incomplete applications or applications submitted without required fees will neither be accepted for processing nor returned to the applicant.

(y) An applicant must:

(1) keep an exact copy of the application submitted to the commission; and

(2) complete and correct any deficiencies within ~~ten business days~~fifteen business days after being notified of the deficiency.

(z) Expedited Approval. The commission may grant expedited or automatic approval for branch applications from primary schools that hold a current, compliant certificate with no pending violations or disciplinary actions within the preceding 24 months.

(aa) Electronic Processing. All materials required under this section, including personal history sheets and background check authorizations, may be submitted electronically with electronic signatures. The commission shall maintain a digital application system that accepts electronic submissions for all branch certificate applications.

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# Texas Alcoholic Beverage Commission

## Executive Summary

The Texas Regulatory Efficiency Office (TREO) conducted an independent economic impact analysis of proposed amendments and repeals to Texas Alcoholic Beverage Commission (TABC) rules under 16 Texas Administrative Code, Part 3 (Chapters 31, 33, 34, 37, 39, 45, and 50).

The analysis yields a range of economic welfare effects:

Baseline: approximately $13.1 million in annual economic benefits from direct resource savings, compliance-time reductions, and avoided defensive over-investment.

High-end: approximately $34.8 million annually when plausible dynamic and market-growth effects are included.

Across all plausible scenarios examined, the estimated net benefit is substantially greater than the modest one-time and recurring implementation costs associated with the rule changes. No transfers (fee reductions, penalty reductions, or attorney-fee expenditures) are counted in these totals; where legal-fee effects are a first-order response, only the 15% deadweight-loss share is retained as a genuine welfare benefit.

## Affected Population

The rule changes affect approximately 55,000 active TABC primary permittees across Texas, including an estimated 18,000 establishments holding a Food and Beverage Certificate, approximately 8,000 bonded entities (brewers, non-resident brewers, wholesalers, and other tax-surety entities), and roughly 15,000 licensees that regularly place paid media advertising. Approximately 400,000 seller-server certifications are issued or renewed each year through a network of approximately 170 primary/internet schools and 300 branch in-house schools. Compliance staff, bookkeepers, general and operations managers, in-house and outside counsel, and surety and banking counterparties to TABC-regulated entities are also affected, as are consumers who benefit from more competitive surety, banking, and advertising markets. Practitioners and the general public that search the Texas Administrative Code for TABC requirements are affected by the code-cleanup changes.

## Principal Data Sources

- TABC administrative and public information on permits, certificates, bonds, advisory committees, and seller-server schools.
- Texas Sunset Advisory Commission reports on TABC licensing volumes and program operations.

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- Texas Restaurant Association data on active restaurant counts and food-and-beverage operations in Texas.
- Texas Comptroller of Public Accounts filings on mixed-beverage and related excise receipts used to cross-check Food and Beverage Certificate population counts.
- U.S. Bureau of Labor Statistics Occupational Employment and Wage Statistics (May 2024) for Texas-specific wages for lawyers, general and operations managers, compliance officers, bookkeeping and accounting clerks, and all-occupations averages.
- OMB Circular A-4 standard practice for fully-loaded wage multipliers (1.45×) and sensitivity analysis.
- Industry data on standardized third-party information-security certifications (SOC 2, PCI-DSS, ISO 27001) used in seller-server school security requirements.

**Where the Benefits Come From — Types of Changes by Category**

Categories are listed in approximate order of contribution to total annual benefits.

| Category | Types of Changes |
|---|---|
| **Recordkeeping & Audit-Preparation Simplification** | • Reducing recordkeeping retention periods where the remaining period still supports audit and enforcement needs<br><br>• Repealing duplicative dollar-value tracking of items already captured by another state agency through existing tax filings<br><br>• Directly lowering bookkeeping, audit-preparation, and document-handling time for tens of thousands of food-and-beverage establishments |
| **Documentation Deadlines, Model Policies & Electronic Records** | • Extending short administrative deadlines for attribution and compliance affidavits to reduce inadvertent administrative forfeitures<br><br>• Authorizing an agency-published model compliance policy that creates a rebuttable presumption of compliance and reduces bespoke legal drafting across tens of thousands of permittees<br><br>• Authorizing electronic and cloud-based recordkeeping in place of paper-only files for routine compliance records |

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| | |
|---|---|
| **Graduated Sanctions & Warning-First Enforcement** | • Adding a warning-in-lieu-of-penalty tier for first-time, non-willful minor violations<br><br>• Shortening the regulatory review cycle so that the sanctions schedule remains aligned with current enforcement priorities<br><br>• Clarifying how monetary penalties interact with suspensions to reduce contested-case uncertainty and negotiation time<br><br>• Replacing enumerated violation lists that restate statute with cross-references to the governing statute to prevent rule-statute drift |
| **Compliance Safe Harbors** | • Formalizing non-exclusive "reasonable care" safe-harbor factors covering training, written policies, security measures, surveillance, and corrective action<br><br>• Reducing defensive over-investment and contested-hearing preparation by giving regulated parties a predictable compliance pathway |
| **Advertising & Promotion Modernization** | • Replacing enumerated media lists with medium-neutral advertising language<br><br>• Ensuring that new digital and social platforms are covered by the advertising rule without repeated rule amendment<br><br>• Unlocking advertising innovation currently chilled by platform-coverage ambiguity |
| **Surety & Banking Market Competition** | • Removing county-of-residence and in-state physical-facility requirements on accepted sureties and banks<br><br>• Expanding the competitive pool of providers eligible to issue TABC-qualifying instruments<br><br>• Lowering bond and alternative-surety prices and broadening access for out-of-area and multi-state operators |
| **Seller-Server Training** | • Consolidating branch-school certificates under common |

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| | |
|---|---|
| **Program Streamlining** | ownership so that administrative formalities scale with the operator, not with each location<br><br>• Accepting standardized third-party information-security certifications in place of duplicative bespoke security audits<br><br>• Authorizing master or batch branch applications to reduce repetitive filings<br><br>• Extending deficiency-correction windows and adding an expedited-approval pathway for compliant certificate holders<br><br>• Mandating fully digital and electronic processing for applications, renewals, and supporting documentation |
| **Regulatory Code Cleanup & Redundancy Elimination** | • Repealing regulatory provisions that restate statute verbatim, preventing rule-statute drift<br><br>• Repealing framework provisions for advisory committees that have expired and are no longer operating<br><br>• Removing duplicative restatements of tax-rate tables, population-determination rules, and standard procedural rights already provided by the Texas Government Code<br><br>• Reducing reader, searcher, and maintenance time for compliance professionals, attorneys, and agency staff |

**Conclusion**

The proposed amendments would generate substantial annual economic benefits — approximately $13.1 million under a conservative direct-effects reading and up to approximately $34.8 million when plausible dynamic and market-growth effects are included. Benefits are concentrated in four provisions — food-and-beverage recordkeeping reductions, the attribution affidavit and model-policy package with electronic records, the warning-first regulatory-sanctions tier, and medium-neutral advertising language — which together account for more than 80% of the midpoint total. The remaining provisions contribute meaningfully to the cumulative effect through graduated-sanctions clarity, compliance safe harbors, surety and banking market competition, seller-server training streamlining, and regulatory code cleanup.

No change reduces public-safety protections or mandatory statutory requirements. Each dollar of estimated benefit reflects a genuine improvement in economic welfare for regulated parties or consumers

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in the State of Texas; transfer payments — including fee and penalty reductions and direct legal-fee expenditures — are excluded from the benefit totals.

**Addendum**

- TABC recommends indefinitely ending its collection of Texas's tax on alcohol and cigarettes from cruise ship passengers who bring those items with them when they disembark at Galveston, TX seaport.

**Estimated Annual Economic Benefit**

Baseline: $1.25 million

High-End (with market-growth effects): $4.7 million

*This analysis estimates the counterfactual economic effect of TABC indefinitely ending its collection of Texas excise taxes on alcohol and cigarettes from cruise ship passengers disembarking at the Port of Galveston. Tax revenue foregone (~$924,000/year) is a fiscal transfer and is not counted as an economic benefit or cost.*

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**1. Background and Proposed Change**

The Texas Alcoholic Beverage Commission (TABC) recommends indefinitely ending its collection of state excise taxes on alcohol and cigarettes from cruise ship passengers who bring those items with them when they disembark at the Galveston, Texas seaport.

Under current law, Tex. Alc. Bev. Code § 107.07 authorizes personal importation of up to 24 twelve-ounce bottles of malt beverages, 3 gallons of wine, and 1 gallon of distilled spirits, subject to payment of state excise taxes and a $3.00 administrative fee per container. [1]

Tex. Tax Code § 154.024(b) directs that "[e]mployees of the Texas Alcoholic Beverage Commission who collect taxes on alcoholic beverages at ports of entry shall collect at the ports of entry the tax imposed by this chapter on cigarettes imported into this state." [2]

TABC implements these requirements through 16 TAC Chapter 39, which establishes detailed procedures for personal importation, tax calculation, fee assessment, and prohibited items. [3]

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This is not the first time this policy change has been considered. In 2019, during the 86th Regular Session, the Texas Legislature considered two bills that would have prohibited TABC from allocating resources for tax collection at cruise ship terminals: SB 1769 (Taylor/Bettencourt) and HB 4091 (Middleton). [4][5]

Both bills proposed amending Tex. Alc. Bev. Code § 5.37 by adding: "(e) The commission may not engage in or allocate resources for the collection of taxes at a port of entry facility located at a cruise ship terminal." Neither bill was enacted.

TABC's current recommendation would achieve the same operational outcome through agency action rather than legislation. However, it is worth noting that Tax Code § 154.024(b) uses mandatory language ("shall collect"), which may require legislative amendment or a formal determination by the Comptroller to authorize cessation of cigarette tax collection specifically.

[1] Tex. Alc. Bev. Code § 107.07(a), (e). https://statutes.capitol.texas.gov/Docs/AL/htm/AL.107.htm

[2] Tex. Tax Code § 154.024(b). https://statutes.capitol.texas.gov/Docs/TX/htm/TX.154.htm

[3] 16 TAC §§ 39.1-39.5.

[4] SB 1769, 86th Leg., R.S. (2019). https://capitol.texas.gov/BillLookup/History.aspx?LegSess=86R&Bill=SB1769

[5] HB 4091, 86th Leg., R.S. (2019). https://capitol.texas.gov/BillLookup/History.aspx?LegSess=86R&Bill=HB4091

**2. Applicable Tax Rates**

Under 16 TAC § 39.2, alcoholic beverages imported for personal use are subject to the following state excise tax rates:

| Product | Tax Rate |
|---|---|
| Distilled spirits | $2.40 per gallon |
| Wine (<14% ABV) | $0.204 per gallon |
| Wine (≥14% ABV) | $0.041 per gallon |
| Malt beverages | $6.00 per 31-gallon barrel ($0.194/gal) |

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| | |
|---|---|
| Sparkling wine | $0.516 per gallon |

In addition, 16 TAC § 39.3 requires a $3.00 administrative fee per container. [6]

For cigarettes, Tex. Tax Code § 154.021 imposes a rate of $70.50 per thousand cigarettes (approximately $1.41 per pack of 20). [7]

At the individual transaction level, these taxes are modest: a 750ml bottle of spirits generates approximately $3.48 in combined tax and fees; a bottle of wine approximately $3.04; and a carton of cigarettes (200) approximately $14.10.

[6] 16 TAC §§ 39.2-39.3.

[7] Tex. Tax Code § 154.021(b)(1). https://statutes.capitol.texas.gov/Docs/TX/htm/TX.154.htm

**3. Galveston Cruise Industry Data**

The Port of Galveston is the fourth-busiest cruise port in the United States. Texas Legislature concurrent resolutions provide the following verified passenger and economic impact data:

| Year | Passengers/Crew | Direct Spending | Jobs | Wage Income |
|---|---|---|---|---|
| 2007 | ~680,000 | $1.07 billion | 18,500 | $893 million |
| 2011 | ~655,000 | $1.13 billion | 17,300 | $917 million |
| 2013 | 900,000+ | $1.20 billion | 20,000 | $1.16 billion |
| 2017 | 900,000+ | $1.42 billion | 25,000+ | $1.62 billion |

Based on the 2017 figure of 900,000 passengers and a conservative 4% annual compound growth rate (consistent with national cruise industry trends), current annual passenger volume is estimated at approximately 1.23 million. [9]

[8] SCR 5, 82nd Leg., R.S. (2011); HCR 56, 83rd Leg., R.S. (2013); HCR 108, 84th Leg., R.S. (2015); HCR 82, 86th Leg., R.S. (2019).

[9] Estimate. Based on 900,000 passengers (2017, HCR 82) compounded at 4% annually for 8 years.

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## 4. Economic Benefit Analysis

This analysis considers only the counterfactual economic effect of ending TABC's collection at the Galveston cruise terminal. Tax revenue foregone is a fiscal transfer between consumers and the state treasury and is excluded from the economic benefit calculation, consistent with standard welfare economics methodology.

4.1 TABC Administrative Cost Savings -- $335,650/year

TABC currently stations regulatory compliance officers at the Port of Galveston to process disembarking cruise passengers. Eliminating this function would yield savings in:

Personnel: 2-5 compliance officers at approximately $75,900 fully loaded cost each (estimated base salary of $55,000 plus 38% state benefits)

Operational costs: tax stamp inventory, IT processing systems, signage, vehicle costs, and reporting overhead ($40,000-$100,000)

Midpoint estimate: $335,650 annually [10]

[10] Estimate. Based on Texas state employee compensation benchmarks for law enforcement/compliance positions.

4.2 Passenger Time and Transaction Cost Savings -- $761,198/year

Cruise passengers who bring taxable items currently spend an estimated 5-15 minutes per transaction in the tax collection queue (waiting, presenting items, paying, receiving stamps). All passengers -- including those without taxable items -- experience some marginal delay from the checkpoint's effect on terminal throughput.

Affected passengers (estimated 10% of 1.23 million): ~123,171

US DOT value of personal travel time: $20.60/hour [11]

Time savings for affected passengers (8 minutes average): $338,310

General throughput improvement for all passengers (1 minute average): $422,888

Combined: $761,198 annually

[11] US DOT, Benefit-Cost Analysis Guidance for Discretionary Grant Programs (2024), recommended value of personal/leisure travel time.

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4.3 Deadweight Loss Removal -- $75,438/year

The excise tax distorts consumer behavior by deterring some passengers from bringing duty-free purchases through the port. When the effective tax (monetary cost plus time/hassle cost, estimated at ~$10.25 per transaction) is weighed against the average item value (~$30), and applying a moderate demand elasticity of -0.7, approximately 24% of potential transactions are deterred. [12]

Removing this distortion generates a standard Harberger triangle welfare gain of approximately $75,438 annually.

[12] Estimate. Elasticity assumption reflects that items are already purchased; the margin of adjustment is whether to bring them through the port.

4.4 Port and Cruise Line Compliance Cost Savings -- $75,000/year

The Port of Galveston and cruise lines operating from it incur costs coordinating with TABC, allocating terminal space for the checkpoint, managing passenger flow, and communicating tax requirements to passengers. These costs are estimated at $75,000 annually. [13]

[13] Estimate. Based on terminal space allocation, scheduling coordination, and passenger communication costs.

**5. Summary of Baseline Economic Benefit**

| Component | Annual Benefit |
|---|---|
| TABC administrative cost savings | $335,650 |
| Passenger time and transaction cost savings | $761,198 |
| Deadweight loss removal | $75,438 |
| Port/cruise line compliance savings | $75,000 |
| TOTAL BASELINE | $1,247,286 |

**6. High-End Estimate (Market-Growth Effects)**

In addition to the baseline direct savings, ending tax collection at the cruise terminal may produce modest positive effects on Galveston's competitiveness as a cruise port.

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Galveston competes with New Orleans, Mobile, Cape Canaveral, and other Gulf and Atlantic ports for cruise line deployments. Most competing ports do not impose a comparable per-item excise tax on disembarking passengers. Reducing port-of-entry friction could marginally increase Galveston's attractiveness for:

Cruise line deployment decisions (number of sailings)

Repeat passenger port preference

Shore excursion and port-of-call activity

Based on 2017 legislative data (HCR 82), each cruise passenger is associated with approximately $1,578 in direct economic spending, or approximately $1,999 adjusted for inflation to 2025. [14]

If ending the tax collection contributed to a 0.4% increase in annual passenger volume -- approximately 4,927 additional passengers -- and applying a conservative 35% value-added rate, the net economic benefit from market growth would be approximately $3.45 million. [15]

| Component | Annual Benefit |
|---|---|
| Baseline (direct savings) | $1,247,286 |
| Market-growth effects | $3,447,006 |
| HIGH-END TOTAL | $4,694,292 |

[14] HCR 82, 86th Leg., R.S. (2019): $1.42 billion / 900,000 passengers = $1,578, inflated at 3% annually to 2025.

[15] Estimate. The 0.4% volume increase and 35% value-added rate are assumptions; actual effect depends on cruise line decision-making and competitive dynamics.

**7. Foregone Tax Revenue (Fiscal Transfer)**

Ending collection would result in estimated foregone state revenue of approximately $924,000 annually, based on an estimated 123,171 affected passengers at an average of $7.50 in combined taxes and fees per transaction. [16]

Per standard welfare economics methodology, this figure represents a fiscal transfer from the state treasury to consumers and is not counted as an economic cost. The state would forgo the revenue; consumers would retain it. No net wealth is created or destroyed by this transfer.

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[16] Estimate. Average tax per transaction based on typical duty-free purchase patterns (spirits, wine, and cigarettes).

**8. Legal Considerations**

As noted in Section 1, Tex. Tax Code § 154.024(b) uses mandatory language directing TABC employees at ports of entry to collect cigarette taxes. TABC may be able to cease alcohol tax collection at cruise ship terminals through administrative action or rule repeal (amending 16 TAC Chapter 39), but cessation of cigarette tax collection likely requires either legislative amendment to § 154.024 or a formal interpretation by the Comptroller's office.

The 86th Legislature bills (SB 1769, HB 4091) took the legislative route, proposing a direct amendment to Alcoholic Beverage Code § 5.37. This approach would have provided clear statutory authorization and addressed the mandatory language in Tax Code § 154.024(b) simultaneously.

**9. Methodology Notes**

All tax rates are taken directly from current Texas statutes and administrative code (verified in database, April 2026).

Galveston passenger volumes are from Texas Legislature concurrent resolutions (legislative findings of fact).

The 2025 passenger estimate uses a 4% compound annual growth rate from the 2017 baseline -- conservative relative to national cruise industry growth rates of 5-7% (CLIA).

Deadweight loss is calculated using the standard Harberger triangle approximation with estimated elasticity parameters.

Market-growth effects in the high-end estimate are inherently uncertain and depend on cruise line deployment decisions, competitive dynamics, and consumer behavior -- factors that are not fully predictable.

Where authoritative data was not available, figures are flagged as "Estimate" in footnotes.

This analysis considers only the Galveston cruise terminal. If applied to other Texas ports of entry, benefits would be proportionally larger.