

From: [Sunset Advisory Commission](#)
To: [Brittany Calame](#)
Subject: FW: Public Input Form for Agencies Under Review (Public/After Publication)
Date: Friday, December 14, 2018 2:29:25 PM

-----Original Message-----

From: sunset@sunset.texas.gov <sunset@sunset.texas.gov> On Behalf Of Texas Sunset Commission
Sent: Friday, December 14, 2018 2:08 PM
To: Sunset Advisory Commission <Sunset@sunset.texas.gov>
Subject: Public Input Form for Agencies Under Review (Public/After Publication)

Agency: TEXAS ALCOHOLIC BEVERAGE COMMISSION TABC

First Name: Kenneth

Last Name: Besserman

Title: General Counsel

Organization you are affiliated with: Texas Restaurant Association

Email:

City: Austin

State: Texas

Your Comments About the Staff Report, Including Recommendations Supported or
Opposed:
December 14, 2018

The Honorable Brian Birdwell
Chairman, Sunset Commission
Texas Capitol E1.706

Dear Chairman Birdwell,

The Texas Restaurant Association appreciates the opportunity to provide written comments to the Sunset Commission's Staff Report and Recommendations for the Texas Alcohol Beverage Commission. TRA understands the complexity of the Texas Alcohol Beverage Code and commends the Sunset Commission and staff in its thorough analysis, review and recommendations to improve the efficiency and effectiveness of the TABC. The Sunset Commission staff reached out to TRA during the review process to discuss issues of importance to the restaurant industry.

TRA is supportive of the thorough review of the TABC licensing system as set out in Issue 2 of the report. The number and types of licenses that food establishments must have to sell and serve alcohol does have an impact on the business operations of the restaurant industry.

We are of the opinion that Recommendation 2.1 (Streamlining the alcohol beverage licensing system by reducing the number of licenses and permits) will provide more clarity to businesses in their operations. Currently, the Code

is extremely difficult for businesses to understand what they may or may not do.

Chapter 28 through 31 of the Texas Alcoholic Beverage Code apply to retail establishments wishing to sell mixed beverages. These retail establishments fall into four broad categories: restaurant, bar, brewpub and hotel. Local option elections in Texas may be drawn to authorize the sale of mixed beverages for all retail categories or for “restaurants only” and a number of provisions within these chapters are unique to the category of business operating under a mixed beverage permit.

For example, a mixed beverage permittee may allow a patron to remove a drink from the licensed premises in a hotel but not a restaurant or bar. Only a brewpub may sell beer and ale for off premises consumption and only a restaurant may operate a sidewalk café that is not contiguous to the licensed premises.

The TRA would like to suggest that Recommendation 2.1 be amended to include language that requires the Code to set out the legal authority and requirements for all mixed beverage permits and then establish unique classes within the mixed beverage permit based on the type of business (MB-restaurant, MB-bar, MB-brewpub, MB-hotel) operated by the permittee.

Setting out the legal authority by business model will enable businesses to better understand what they are permitted and not permitted to do under the Code. Delineating the legal authority (whether mixed beverage permit, brewpub permit, food and beverage certificate, or other authority) that is applicable to different business models will enable businesses that sell alcohol a precise and easily referenced way to understand their authority under the Code.

Finally, delineating the type of business operating a under a mixed beverage permit would allow future Legislatures and the agency to more precisely regulate permittees based on the business they operate and recognize the differing operating issues unique to each business model.

TRA would also like to recommend that the Sunset Commission consider a proposal to amend the Sunset report to require cities and counties to timely certify the wet or dry status as part of the TABC application process. Currently, Alcohol Code Sections 11.37 and 61.37 only requires that a city or county certify that the location is in a wet area. There is no time limit by which a city or county must certify wet status. By requiring a set time frame (30 days) for a city or county to certify wet status, this will significantly improve the efficiency and effectiveness of the TABC permitting process. TABC will be able to approve permits and licenses quicker (without having to unduly wait for city or county certification) and businesses will be better able to plan, financially and employee staffing, for business openings and permit approval.

Thank you for your consideration of these matters. Please feel free to contact me if you need more information.

Sincerely,

Richie Jackson

CEO, Texas Restaurant Association

Any Alternative or New Recommendations on This Agency:

We are of the opinion that Recommendation 2.1 (Streamlining the alcohol beverage licensing system by reducing the number of licenses and permits) will provide more clarity to businesses in their operations. Currently, the Code is extremely difficult for businesses to understand what they may or may not do.

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My Comment Will Be Made Public: I agree