

TCBG TABC Sunset Testimony
December 13, 2018

Thank you Mr. Chairman and Commissioners for having me here today. My name is Adam DeBower and I'm one of the owners of Austin Beerworks. I also sit on the Board of Directors for the Texas Craft Brewers Guild and currently serve as Chair of its Legislative Committee. I have a lot to cover, so if you have specific questions about any of my testimony I hope you'll ask them once I'm finished with my prepared statement.

Permit consolidation

First, Texas craft brewers couldn't agree more fully with Sunset staff's assessment in Issue 2: I quote: **"TABC cannot efficiently regulate the alcoholic beverage industry without modernizing the state's byzantine licensing system."**

This point is illustrated by the number of licenses and permits carried by my small brewery in north Austin: we have 19 separate licenses and permits to operate our business, of which 6 are issued by TABC: We have a brewer's permit, a manufacturer's license, a private carrier's permit, a private storage permit, a brewer's self distribution permit for ale, and a manufacturer's self distribution license for beer.

A brewer should only need a single permit to perform all of the activities a brewer is allowed under the code. By reforming TABC's licensing and permitting scheme a great deal of the bureaucratic burden placed on Texas brewers would be eliminated.

The Beer/Ale Distinction

Staying on Issue 2, Texas' distinction between beer and ale is unique in America and provides zero value to the state of Texas, to industry stakeholders, and to consumers. It is a completely arbitrary invention of government: per the code, beer in Texas is less than 4% ABW and ale is more than 4% ABW. Because of this legislated distinction, Texas brewers are required to hold both a brewer's permit to produce ale and a manufacturer's license to produce beer.

Now, no Texas consumer is running out to the grocery store with a shopping list that calls for one six-pack of beer and one six-pack of ale. Further, the differential marketing, storage, and licensing rules that apply to beer versus ale are a monumental waste of brewers' and TABC administrators' time.

Our sincerest hope is that this Sunset process ultimately yields a regulatory structure that is both safe *and* as permissive as possible so that Texas brewers, wholesalers, and retailers can get Texas craft beer into the hands of the consumers who want it.

Amend ABC Sec. 11.01(c)(3).

Finally, I want to point your attention to TAB Code Section 11.01(c)(3). I quote:

"An act done by a person which is not permitted by this code is unlawful."

This provision allows administrators the ability to approve or deny nearly any action or behavior by a regulated entity if that action or behaviour isn't explicitly allowed in the code. As we mentioned in our October 3rd letter this provision has been used differentially by former administrations, sometimes to prevent certain behaviors and in other instances to punish permittees for actions that are otherwise not addressed by code or rule. Just as Sunset staff recognized fundamental flaws in the protest process articulated in Issue 4, this provision allows for inconsistent and subjective rulings without a transparent process for those governed and without any process or capacity to appeal a judgement made by the administration.

We believe the Commission should have reasonable latitude when it comes to enforcing provisions of the code, but this provision goes far beyond reasonableness. It provides no value to the state, to alcohol industry

members, and least of all to consumers, and in the interest of good government it should be struck from the code.

Thank you very much, I'm happy to take any questions you might have.