

# **Self-Evaluation Report**



**Texas Alcoholic Beverage Commission**

**August 2003**

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## **Texas Alcoholic Beverage Commission Self-Evaluation Report**

### **I. Key Functions, Powers, and Duties**

Please provide the following information about the overall operations of the agency. More detailed information about individual programs will be requested in a later section.

- A. Provide an overview of the agency's mission, key functions, powers, and duties. Specify which duties are statutory.**

#### **MISSION**

The mission of the Texas Alcoholic Beverage Commission is to supervise and regulate all phases of the alcoholic beverage industry to ensure the protection of the welfare, health, peace, temperance and safety of the people of Texas, while facilitating fairness, balanced competition and responsible behavior through voluntary compliance.

#### **OVERVIEW OF AGENCY - SCOPE AND FUNCTIONS**

When the 21<sup>st</sup> Amendment to the U.S. Constitution repealed national prohibition (imposed by the 18<sup>th</sup> Amendment) in 1933, it delegated responsibility for regulation of the alcoholic beverage industry to the individual states.

#### **U.S. Constitution - AMENDMENT XXI**

**Section 1.** The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

**Section 2.** The transportation or importation into any state, territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

#### **Creation of the Agency**

Shortly after the adoption of the 21<sup>st</sup> Amendment, the Texas Legislature, meeting in special session, enacted the Texas Liquor Control Act that created the Texas Liquor Control Board. The LCB, as it came to be commonly known, began its existence on November 16, 1935, charged with the administration of the new act. The name of the agency was changed January 1, 1970, to the Texas Alcoholic Beverage Commission and, on September 1, 1977, the recodified Texas Liquor Control Act took effect as the Texas Alcoholic Beverage Code.

#### **Liquor by the Drink**

After several attempts, the Texas Legislature responded in 1971 to a public referendum by creating a mixed beverage permit that allowed sales of liquor by the drink in those areas specifically authorized by local option election. With the new permit came the mixed beverage

gross receipts tax: a tax at the rate of 10 percent imposed on the gross receipts of a permittee from the sale, preparation, or service of mixed beverages or from the sale, preparation, or service of ice or nonalcoholic beverages that are sold, prepared, or served for the purpose of being mixed with alcoholic beverages and consumed on the premises of the permittee. The new permit met with immediate acceptance, and the new tax quickly became a major revenue generator for the state. In 1985, the tax rate was increased to 12 percent; it was increased again in 1989 to 14 percent. For fiscal year 1993, gross receipts tax and penalty collections amounted to \$244.7 million, more than half of the total revenue collected by the agency.

Sunset Review House Bill 1445 of the 73rd Legislature, 1993, enacted recommendations of the sunset review process regarding the commission. The legislature's action demonstrated its belief in the need for a separate alcoholic beverage regulatory agency. Emerging from the process, the Texas Alcoholic Beverage Commission was continued for 12 years with two significant functional changes:

- Effective January 1, 1994, responsibility for the collection and verification of the mixed beverage gross receipts tax was transferred to the Office of the Comptroller of Public Accounts.
- Effective April 1, 1994, responsibility for the enforcement of the Bingo Enabling Act was transferred to the Texas Lottery Commission. The Alcoholic Beverage Commission had assumed short-term responsibility for the regulation of bingo from the Office of the Comptroller of Public Accounts in January 1990.

As provided in the Alcoholic Beverage Code, the commission is subject to the Texas Sunset Act and will undergo the review process in 2005.

### **Powers and Duties**

The Alcoholic Beverage Code authorizes the Texas Alcoholic Beverage Commission to:

- grant, refuse, suspend, or cancel permits and licenses in all phases of the alcoholic beverage industry;
- supervise, inspect, and regulate the manufacturing, importation, exportation, transportation, sale, storage, distribution, and possession of alcoholic beverages;
- assess and collect fees and taxes;
- investigate for violations of the Alcoholic Beverage Code and assist in the prosecution of violators;

- seize illicit beverages;
- adopt standards of quality, and approve labels and size of containers for all alcoholic beverages sold in Texas;
- pass rules to assist the agency in all of the above.

Although the laws regulating the alcoholic beverage industry are consistent statewide, the Alcoholic Beverage Code allows local (county, city, justice precinct) determination of the types of alcoholic beverages, which may be sold and how they can be sold by means of local option elections.

### **KEY FUNCTIONS**

The policy-making body of the agency is a three-member governing board appointed by the governor with the advice and consent of the senate. Members of the commission hold office for staggered terms of six years, with the term of one member expiring every two years. Each member must be a Texas resident and must have resided in the state for at least five years preceding the appointment. Commission members serve without salary. The commission is currently comprised of Chairman John T. Steen, Jr. of San Antonio, Gail Madden of Dallas and Kel Seliger of Amarillo.

An administrator, appointed by the three-member governing board, directs the daily operations of the Texas Alcoholic Beverage Commission. The current administrator is Alan Steen. The administrator is responsible for employing staff to ensure that the policies established by the commission and the laws enacted by the legislature are implemented in an efficient and cost-effective manner. Sharing in that responsibility is an executive support staff, which includes an assistant administrator, general counsel and administrative assistants, as well as the directors of the agency's functional and administrative support divisions. Also included is the internal affairs officer who reports directly to the administrator. As of October 2000, an independent audit firm, selected by the vote of the three-member governing board and reporting directly to the governing body, performs internal audit functions for the agency.

The commission has three divisions: enforcement and marketing practices, regulatory and resource management and a legal section.

### **Enforcement and Marketing Practices Division**

The agency's largest and most visible operating unit is responsible for the criminal and administrative enforcement of the state's alcoholic beverage laws. Certified peace officers, known as TABC agents, inspect premises licensed by the agency and investigate alleged violations of the Alcoholic Beverage Code and other state laws. Increasingly, the commission has placed a greater emphasis on developing initiatives that target the problems associated with underage drinking. Agents are called on to provide presentations to school children, ranging

from middle schools to college and university settings. In addition, presentations are delivered to licensees and their employees, civic organizations and other law enforcement agencies in an attempt to promote a better understanding of the law and the role and responsibilities of the Texas Alcoholic Beverage Commission.

The division's marketing practices section is responsible for oversight of the labeling, bottling and promotion of alcoholic beverage products in Texas.

### **Regulatory Division**

This division includes two departments, licensing and compliance, which have a broad spectrum of duties.

The licensing department investigates and processes applications for all phases of the alcoholic beverage industry, including the manufacture, sale, purchase, transportation, storage and distribution of alcoholic beverages. The department must ensure that each applicant is qualified to hold such license/permit and adheres to all applicable regulatory requirements. More than 100,000 licenses and permits were issued during fiscal year 2002 by department personnel.

The compliance department is charged with the oversight of the administrative/regulatory enforcement of the Alcoholic Beverage Code, as well as the taxing authority of the agency. The department plays a role in the initial licensing process through inspections, fee analysis and marketing practices reviews. Personnel receive and process monthly excise tax reports and ensure taxes have been paid and that other reporting requirements are in adherence with the statutes of the Alcoholic Beverage Code through an audit oversight function. In addition, field personnel conduct investigative audits, regulatory compliance and other financial reviews and assists the enforcement division in various types of investigations. The voluntary seller/server training program, which certifies and monitors third parties to conduct training courses for sellers of alcoholic beverages, is also within the purview of the compliance department.

The ports of entry program, a section of the compliance department, is responsible for ensuring compliance with personal importation laws and the collection of taxes and fees on alcoholic beverages brought into Texas. Taxpayer compliance officers also monitor compliance with the laws regarding importation of cigarettes into Texas and collect the applicable taxes for the Office of the Comptroller of Public Accounts. Agency personnel are stationed at all major bridges along the Texas-Mexico border.

### **Resource Management Division**

Administrative support for the agency is provided by four departments comprising the resource management division. Also found in the division is the grant administration section.

The fiscal services department is responsible for all fiscal operations of the agency, including

revenue processing, accounts payable, payroll, time and leave accounting, maintenance of the general ledger and preparation and oversight of the agency's legislative appropriations request, annual report, and performance reports.

The information resources department supports the agency's automated data processing and information resources management needs. This includes administration of the agency's mainframe computer application, wide area network, computer programming support for mainframe and personal computer systems, intranet, Internet, computer-generated printing support for various agency forms, licenses, reports and letters.

The general services department is responsible for staff support functions of purchasing, HUB program coordination, real and personal property management, risk management, facilities leasing, voice telecommunications, fleet management, centralized consumable supply distribution, mail center operations, reproduction services, and ware-housing.

The human resources department manages employment related activities, including recruitment, selection, benefits and compensation, employee relations, classification, training, and implementation of the agency's equal employment opportunity program.

The grant administration section is responsible for management of the current grant programs, including the passthrough of funds to sub-grantees and initiates new programs through the attainment of grants and other funding.

### **Legal Section**

The agency's legal section prepares, processes and prosecutes administrative cases dealing with violations of the Alcoholic Beverage Code. This section also reviews and prosecutes application protests by the commission, local authorities and citizens to the issuance of licenses and permits. When violations by permittees/licensees throughout the State of Texas are alleged, a hearing is held by the State Office of Administrative Hearings to determine whether to cancel, suspend, grant or deny a license or permit.

**B. Does the agency's enabling law correctly reflect the agency's mission, key functions, powers, and duties?**

The commission's enabling law correctly reflects the agency's mission, key functions, powers and duties. The Texas Alcoholic Beverage Code states the purpose of the commission with regard to alcoholic beverage regulation as follows:

**Sec. 1.03. PUBLIC POLICY.** This code is an exercise of the police power of the state for the protection of the welfare, health, peace, temperance, and safety of the people of the state. It shall be liberally construed to accomplish this purpose.

**Sec. 1.06. CODE EXCLUSIVELY GOVERNS.** Unless otherwise specifically provided by the terms of this code, the manufacture, sale, distribution, transportation, and possession of alcoholic beverages shall be governed exclusively by the provisions of this code.

**Sec. 5.31. GENERAL POWERS AND DUTIES.** The commission may exercise all powers, duties, and functions conferred by this code, and all powers incidental, necessary, or convenient to the administration of this code. It shall inspect, supervise, and regulate every phase of the business of manufacturing, importing, exporting, transporting, storing, selling, advertising, labeling, and distributing alcoholic beverages, and the possession of alcoholic beverages for the purpose of sale or otherwise. It may prescribe and publish rules necessary to carry out the provisions of this code.

**C. Please explain why these functions are needed. Are any of these functions required by federal law?**

The Alcoholic Beverage Code exists for the protection of the welfare, health, peace, temperance and safety of Texans. Thus, the commission pursues its vision of a safe and sober Texas not only through normal police activities, but also through licensing and regulation of commercial activity within the alcoholic beverage industry.

The 21<sup>st</sup> Amendment to the U.S. Constitution repealed national prohibition (imposed by the 18<sup>th</sup> Amendment) in 1933, and delegated responsibility for regulation of the alcoholic beverage industry to the individual states.

**D. In general, how do other states carry out similar functions?**

As mentioned in response to the previous question, the repeal of prohibition was accomplished by the addition of the 21<sup>st</sup> Amendment to the U. S. Constitution. That Amendment made the regulation of alcoholic beverages a matter of state, rather than federal, concern.

In considering how to regulate alcoholic beverages, a minority of states elected to become “control” states. That is, the state, acting through a state agency, serves as a wholesaler and purchases all alcoholic beverages sold in the state for resale to consumers either through state or privately owned retail outlets. Currently, Alabama; Idaho; Iowa; Maine; Montgomery County, Maryland; Michigan; Mississippi; Montana; New Hampshire; North Carolina; Ohio; Oregon; Pennsylvania; Utah; Vermont; Virginia; Washington; West Virginia and Wyoming operate in this manner. Of these 19 jurisdictions, 12 serve as retailers.

The remaining majority of the states, including Texas, chose an “open” or “license” approach. These states license each private entity doing business in their state. Each of these states have,

like Texas, structured their regulatory scheme around a “three-tiered” system of distribution.

While there are individual differences among the various states, in general this system requires alcoholic beverages to flow from manufacturer or importer to wholesaler to retailer to consumer; overlapping ownership of licenses, businesses, premises or equipment among the tiers is forbidden; and the flow of goods, benefits and services among the tiers is extremely curtailed.

**E. Describe any major agency functions that are outsourced.**

The Texas Alcoholic Beverage Commission has outsourced the internal audit function with Jansen and Gregorczyk, CPA, and the mainframe operations with the West Texas Disaster Recovery and Operations Center.

**F. Discuss anticipated changes in federal law and outstanding court cases as they impact the agency's key functions.**

Currently the most controversial and unpredictable issue facing enforcement of alcoholic beverage laws concerns the ability of the state to ban shipments of wine by out-of-state suppliers to Texas consumers. Like a number of other states, Texas law forbids out-of-state suppliers to sell or ship their product directly to Texas consumers. Simultaneously, Texas law allows in-state wineries to sell, and ship, their product directly to Texas consumers.

Plaintiffs in Texas and six other states have claimed that such law violates the Inter-state Commerce Clause of the U. S. Constitution, which generally forbids discrimination against foreign commerce in favor of local interests. The states have pointed to the 21<sup>st</sup> Amendment which, by its terms, grants the states control over the terms under which alcoholic beverages may be imported into their jurisdiction. The precedents from the Supreme Court are ambiguous on this question and federal courts around the country have split on the question.

In August 2002, the Houston district court ruled that the relevant Texas statutes are unconstitutional. The trial judge stayed entry of the injunction banning enforcement of these statutes pending further action by either the Texas Legislature or the Fifth Circuit Court of Appeals. The legislature did not act on this issue during its recent regular session. On June 26, 2003, in the case of *Dickerson v. Bailey*, No. 02-2437, the Fifth Circuit upheld the trial court's finding of unconstitutionality. At the time of this report, the agency is considering whether to pursue this matter to the U. S. Supreme Court.

The effect of the Dickerson ruling is to deregulate a channel of commerce in wine between out-of-state suppliers and Texas consumers. This state of affairs will continue until statutory amendments are adopted or until a favorable ruling by the Supreme Court is reached. The Supreme Court will not reach the issue, if at all, before 2004.

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Beyond the direct shipping controversy, because of the 21<sup>st</sup> Amendment, the terms of a state's regulation of alcoholic beverages are generally not subject to federal preemption or control. Therefore, there are no other anticipated changes to federal law that are expected to impact the performance of this agency's key functions.

- G. Please fill in the following chart, listing citations for all state and federal statutes that grant authority to or otherwise significantly impact the agency.** Do not include general state statutes that apply to all agencies, such as the Public Information (Open Records) Act, the Open Meetings Act, or the Administrative Procedure and Texas Register Act. Provide the same information for Attorney General opinions from FY 1999 - 2003, or earlier significant Attorney General opinions, that affect the agency's operations.

Beyond the statutes that apply to all state agencies, all of the law that grants authority or significantly impacts this agency is contained in the Texas Alcoholic Beverage Code. There are no Attorney General opinions that significantly impact this agency.

<b>Texas Alcoholic Beverage Commission Exhibit 1: Statutes/Attorney General Opinions</b>	
<b>Statutes</b>	
<b>Citation&gt;Title</b>	<b>Authority/Impact on Agency</b> (e.g., "provides authority to license and regulate nursing home administrators")
N/A	

<b>Attorney General Opinions</b>	
<b>Attorney General Opinion No.</b>	<b>Impact on Agency</b>

- H. Please fill in the following chart:**

**Texas Alcoholic Beverage Commission  
Exhibit 2: Agency Contacts**

	<b>Name</b>	<b>Address</b>	<b>Telephone &amp; Fax Numbers</b>	<b>E-mail Address</b>
<b>Agency Head</b>	Alan Steen	P. O. Box 13127 Austin, Texas 78711	512 206-3217 512 206-3350	a.steen@tabc.state.tx.us
<b>Agency's Sunset Liaison</b>	Jeannene Fox	P. O. Box 13127 Austin, Texas 78711	512 206-3366 512 206-3350	j.fox@tabc.state.tx.us

## **II. History and Major Events**

**Provide a time line discussion of the agency's history, briefly describing the key events in the development of the agency, including:**

- the date the agency was established;
- the original purpose and responsibilities of the agency;
- major changes in responsibilities or statutory authority;
- agency/policymaking body name and composition changes;
- the impact of state/federal legislation, mandates, and funding;
- the impact of significant state/federal litigation that specifically affects the agency's operations; and
- key organizational events, and areas of change and impact on the agency's organization (e.g., a major reorganization of the agency's divisions or program areas).

See **History and Major Events Example** or [click here to link directly to the examples](#).

### Time Line

1836 The first taxes on distilled spirits and malt beverages in Texas were enacted as import duties to finance the fledgling republic. This duty amounted to 45% of value and made no distinction as to proof or type.

1920 Congress passed a joint resolution proposing nation-wide constitutional prohibition on December 19, 1917. It became effective January 16, 1920, one year after ratification, and there followed 13 years of the so-called "Great Experiment" in American government.

1933 In a federal revenue measure approved March 22, 1933, beverages, which contained not more than 3.2% of alcohol by weight, were exempted from provisions of the National Prohibition Act.

On August 24, 1933, Texas voters legalized 3.2 beer with licenses issued and fees collected on the county level.

The State Treasurer was made responsible for the design, printing and sale of tax stamps. Revenue from both license fees and the stamp tax were allocated one-half to the Available School Fund and one-half to the General Revenue Fund.

With ratification by the 36<sup>th</sup> state on December 3, 1933, the 21<sup>st</sup> Amendment to the U.S. Constitution repealed national prohibition imposed by the 18<sup>th</sup> Amendment.

1935    **142 Employees**      **4,404 Temporary permits and licenses**

The Texas Legislature, meeting in special session, enacted the Texas Liquor Control Act that created the Texas Liquor Control Board on November 16, 1935 (House Bill 77, Second Called Session of the 44<sup>th</sup> Legislature).

Regulation of the manufacture and sale of beer was transferred from the State Treasurer to the Board. Allocation of gallonage tax revenue on beer was changed one-fourth to the Available School Fund and three-fourths to the Old Age Assistance Fund, but all license tax revenue on beer was earmarked for the General Revenue Fund.

To make a distinction between the distilled spirits and beer business “permits” rather than “licenses” were provided for the manufacture, sale and distribution of distilled spirits. Because the “open saloon” had been universally condemned and was prohibited under the constitutional amendment repealing state prohibition, that term was defined as a place of business where distilled intoxicants were sold by the drink or in broken or unsealed packages for consumption on the premises.

Applications for beer licenses were made to county officials, but liquor permit applications had to be made to the Board. Elaborate permit procedures designed to protect local interest and autonomy were outlined in the act.

Grounds for refusal, suspension or cancellation of permits were enumerated.

Pyramiding ownership of retail outlets, wholesale outlets and manufacturing or distilling industries were prohibited in an attempt to limit the number of outlets in the state by preventing manufacturers and wholesalers from establishing retail outlets.

Since the Liquor Control Act was more than a tax measure, election procedures for determining an area’s “wet” or “dry” status were also provided.

Revenue from both permit fees and stamp sales on liquor were divided one-fourth to the Available School Fund and three-fourths to the Old Age Assistance Fund.

First annual report of the administration of the Texas Liquor Control Board reported 4,404 temporary permits had been issued with a staff of 142 employees consisting of 86 field inspectors and 56 office employees.

*Licenses/permits created: agent's permit, brewer's permit, carrier's permit, distiller's and rectifier's permit, industrial permit, local cartage permit, package store permit, package store permit (wine only), private carrier's permit, private storage permit, public storage permit, wholesaler's permit, wine and beer retailer's permit for railway*

*dining, buffet or club cars, branch distributor's license, general distributor's license, local distributor's license, manufacturer's license, retail dealer's off premise license, retail dealer's on premise license, and wine and beer retailer's permit.*

1936    [248 Employees](#)    [5,336 Liquor permits](#)    [11,417 Beer licenses and wine permits](#)

In a special legislative session (Third Called Session of the 44<sup>th</sup> Legislature) a state welfare program tax rates on distilled spirits and wine were increased, and license and permit fees were allotted to the Old Age Assistance Fund.

Established collectors of revenue were placed on international bridges in Brownsville, Eagle Pass, El Paso and Laredo for the purpose of collecting taxes on legally admitted liquors by consumers.

Confiscated liquor and vehicles were sold at public auction by sheriffs of the county in which the seizure was made.

1937    [289 Employees](#)    [4,726 Liquor permits](#)    [12,481 Beer licenses and wine permits](#)

A completely revised Liquor Control Act was passed and revised for a second time by a called session, which convened only a few days later.

The number of assistant attorneys general was expanded from two to six in order to conduct hearings before the Board and defend the administrator's or Board's orders.

Prior to September 1, 1937, all beer licenses were issued by the county officials. Since that date, the final approval of applications for licenses has been vested in the Board and the actual issuance thereof is performed by it.

In March 1937, the first issue of the department's monthly office publication, Liquor Control Review, was published.

On May 19, 1937, the Court of Criminal Appeals in the Jake Horton Case held that the state was without authority to collect the tax on liquors brought into the state from Mexico for personal consumption. In accordance with the mandate of said court, collections were stopped on May 24, 1937, and were not resumed until September when the new law took effect, whereby such imports were legally taxed.

*Licenses/permits created: bonded warehouse permit, wholesaler (general class B) permit and wine bottler's permit.*

1938    288 Employees    4,126 Liquor permits    13,040 Beer licenses and wine permits

In May 1938, labeling and advertising regulations and rules and regulations governing the standards of identity, purity and quality of liquors were passed by the Board.

“Since the promulgation of Rule and Regulation #8-C governing the labeling and advertising of wine, there has been noted a marked improvement in the quality of wine manufactured and bottled in this State.”

Revenue collections were established on international bridges in El Paso, Laredo and Texarkana, Texas. Collection in Texarkana ended in 1938.

At this time an address file of licensees and permittees is being installed, containing the name and street address of each licensee and permittee, and each applicant will be checked against this file in order that more than one license or permit will not be issued to the same address.

1939    236 Employees    4,139 Liquor permits    13,200 Beer licenses and wine permits

The Board reduced 52 positions and abolished the Beer Tax Division. The Filing Division was merged with the Accounting Division and the position of Chief Examiner was transferred to the Administrative Division. The Enforcement Division adds a Chemical Section and Marketing Practices Unit.

“The Supreme Court of Texas handed down a decision which is expected to be of paramount importance in liquor law enforcement.” The supreme court held in effect that a district court could grant a temporary injunction without hearing where it is alleged that liquor is being sold in violation of the law.

1940    245 Employees    4,200 Liquor permits    12,834 Beer licenses and wine permits

SB 20, Act of the First Called Session of the 45<sup>th</sup> Legislature, embodied blanket appropriations for refunding the unused portion of permits and licenses, which might be voided by reason of local option elections wherein political subdivisions of the state were voted dry.

A comprehensive training program, designed to make Texas Liquor Control Board personnel the best qualified group in the United States engaged in this type of work, became a reality in 1940 through the medium of a series of “schools.” All the material covered in the course is contained in the official manual, a compendium of the state’s liquor laws and a correlation of the opinions of the courts and attorney general, principles of law in search-and-seizure and arrest; rules of evidence; rules and

regulations of the Board and matters of policy.

1941    **275 Employees       4,352 Liquor permits       12,857 Beer licenses and wine permits**

The Omnibus Tax Bill, HB 8 passed by the 47<sup>th</sup> Legislature, carried provision for the increase of tax on distilled liquor from \$0.96 to \$1.28 per gallon and assessed a tax of \$0.22 on each prescription for liquor filled by holders of medicinal pharmacy permits.

HB 373 was designed to drastically curb the freedom of the medical profession in the issuance of prescriptions available to licensed physicians. (New license for physicians created.)

When HB 8 and HB 373 became effective, there were 484 medicinal pharmacy permits; however, only 120 of these permits were renewed. Within 50 days the 364 permittees who failed to renew their permits were audited.

SB 414, commonly referred to as the “beer sign law,” was designed to drastically curb the unrestricted display of beer signs in areas of the state wherein the sale of beer was legal and to prohibit the display of beer signs in dry areas.

Established to facilitate enforcement of the “beer sign law,” the Board’s photographic unit is expected to play an important part also in the elimination of questionable retail establishments. The Board purchased equipment and employed a photographer, when this was found the most economical course to pursue in obtaining photographic reproductions of “exceptions” to the new sign law.

The Liquor Act Enforcement Fund and the Omnibus Tax Clearance Fund were created.

1942    **259 Employees       3,594 Liquor permits       11,391 Beer licenses and wine permits**

May 1, 1942 - establishment of revenue collections in Hidalgo on the new highway between McAllen and Monterrey.

“Since the rationing of gasoline and tires was initiated there has been a marked decrease in the issuance of licenses and permits in rural areas.”

“A noticeable decline of wine samples analyzed is occasioned by the inability of Texas wine bottlers to receive bulk wine. This is a natural consequence of the shortage of tank cars and inadequate transportation facilities.”

1943    226 Employees    3,262 Liquor permits    10,256 Beer licenses and wine permits

The first audit of the affairs of the Texas Liquor Control Board was issued covering the period 1936-1942. The audit acknowledged that enforcement had “been quite successful” but there was some discussion of indistinct lines of divisional authority in the Board’s organization, with major criticism directed toward use of the Confiscated Liquor Fund and travel expenses.

Following the publication of the auditor’s report, the legislature wrote a general overhaul of the act.

At the same time the allocation of alcoholic beverage tax revenue was changed. Revenues formerly earmarked for the Old Age Assistance Fund were switched to the Clearance Fund, from which revenues are transferred to other funds including that for old age assistance.

“Government restrictions applicable to the production of alcoholic beverages were applied in the fall of 1942. Regular production of distilled spirits has entirely ceased, and the production of vinous and malt beverages has been greatly affected by material shortages and transportation difficulties.”

SB 117, Regular Session of the 48<sup>th</sup> Legislature, extended to the advertising of distilled and vinous liquors the same restriction against advertising practices imposed by the 47<sup>th</sup> Legislature.

*Licenses/permits created: manufacturer’s agent’s permit and nonresident seller’s permit.*

1944    235 Employees    4,405 Liquor permits    10,703 Beer licenses and wine permits

In March of 1944, tax collections on the Mexico border were re-established at Brownsville and Eagle Pass, and new locations in Del Rio and Thayer were opened.

“Exclusive of confiscations made in December, 1944, the Board had on hand in Austin and its 16 district offices December 31, 1944, 30,398 bottles of alcoholic beverages which it has been unable to sell on account of the conflict in state and federal laws and regulations.” The Office of Price Administration early in 1943 took the position that the Board could not sell confiscated liquors at prices above the ceiling fixed by the applicable price regulation. December 30, 1944, the Attorney General’s Department verbally advised the administrator of the Board not to make any sales until notified by that department.

1945    244 Employees    5,879 Liquor permits    12,890 Beer licenses and wine permits

The Legislature in 1945 required peace officers to make inventories of confiscated liquors and tightened control of these beverages.

The 49<sup>th</sup> Legislature authorized the Board to use for enforcement 20% of the proceeds derived from the sale of confiscated alcoholic beverages.

1946    [244 Employees](#)    [7,837 Liquor permits](#)    [16,039 Beer licenses and wine permits](#)

The laboratory was moved into 811-12 Tribune Tower, Austin, Texas in January. With the floor space, cabinet space, equipment and working conditions as now exist; the Board has one of the best laboratories in Texas for analysis of all types of alcoholic beverages.

1947    [255 Employees](#)    [7,315 Liquor permits](#)    [19,713 Beer licenses and wine permits](#)

The appropriation was brought about by a 15% increase in salaries grant by the 50<sup>th</sup> Legislature, effective February 12, 1947.

A physical inventory count of all state-owned movable property was made as of August 31, 1947; one copy was sent to the State Comptroller and one copy was sent to the State Board of Control.

1948    [255 Employees](#)    [6,838 Liquor permits](#)    [22,067 Beer licenses and wine permits](#)

1949    [250 Employees](#)    [6,246 Liquor permits](#)    [24,316 Beer licenses and wine permits](#)

The 51<sup>st</sup> Legislature authorized the Board to use for enforcement purposes 35% of the proceeds derived from the sale of confiscated alcoholic beverages.

The Liquor Control Act was lengthened. Definitions were added, grounds for refusal of permits broadened, new bases for suspension or cancellation, changes to the Confiscated Liquor Fund and the power to issue temporary licenses was taken from the county assessors and collectors and given to the board.

Effective October 1, 1949, the method of paying beer excise taxes was changed from use of stamps to collection from manufacturers and importers. Importers were required to secure a license for \$5. Reports and records were provided for enforcement purposes, and taxes became due the 15<sup>th</sup> of each month for the proceeding month. The gallonage rate of \$1.24 per barrel was not changed.

A tax collecting facility at the international bridge at Roma was opened.

*Licenses/permits created: importer's license and importer carrier's license.*

1950    [250 Employees](#)    [6,385 Liquor permits](#)    [27,338 Beer licenses and wine permits](#)

All taxes on distilled spirits and beer were raised 10%. Revenue from this increase was earmarked for the State Hospital Fund.

Tax collecting facilities in San Antonio on October 15, 1950, and at the international bridge at Ysleta on November 20, 1950, were opened.

During 1950, the chemist collaborated with six chemists seeking to aid the Association Official Agricultural Chemist in obtaining a better method of the detection of iron in beer.

1951    [252 Employees](#)    [6,397 Liquor permits](#)    [26,787 Beer licenses and wine permits](#)

The 52<sup>nd</sup> Legislature lowered the percentage the Board could use for enforcement purposes to 20% of the proceeds derived from the sale of confiscated alcoholic beverages.

The 52<sup>nd</sup> Legislature enacted five measures concerning intoxicating beverages. One restricted beer sales to cash transactions, one further regulated the number and type of permits any one person might hold, one prescribed additional privileges and duties for the holders of wine only package store permits, one required approval by the Liquor Board of contracts for sale or delivery of liquor over agreed periods of time, and one permitted the Liquor Control Board to prescribe rules and regulations for the collection of taxes on wine, including "the right to determine whether or not stamps evidencing the payment of such tax shall be affixed to the container."

All employees have executed and filed their loyalty oath as required by Section 1, Article VI of HB 426.

All state-owned motor-propelled passenger-carrying vehicles under the control of the Board were sold October 1, 1951, as provided for in HB 426.

1952    [252 Employees](#)    [6,441 Liquor permits](#)    [28,114 Beer licenses and wine permits](#)

The Auditing Division directed the collection of state tax on all alcoholic beverages brought into Texas by individuals at the port of entry from Mexico at El Paso.

Tax collecting facilities in San Antonio was discontinued.

1953    **267 Employees**    **6,342 Liquor permits**    **28,426 Beer licenses and wine permits**

The 53rd Legislature increased the percentage the Board could use for enforcement purposes to 35% of the proceeds derived from the sale of confiscated alcoholic beverages.

The Enforcement Division created an undercover unit with 15 personnel.

On September 1, 1953, the collection of state tax on alcoholic beverages at ports of entry along the Texas-Mexico border became the duty and responsibility of the Auditing Division. Through legislative action, all bridge personnel formerly known as bridge inspectors became revenue collectors.

Tax collecting facilities on the international bridge at Thayer was discontinued and the international bridge at Progreso was opened.

1954    **267 Employees**    **6,100 Liquor permits**    **29,122 Beer licenses and wine permits**

A tax collecting facility on the international bridge at Falcon was opened.

The beer tax rate increased from \$1.37 per barrel to \$2.00 per barrel September 1, 1954.

1955    **267 Employees**    **6,164 Liquor permits**    **28,748 Beer licenses and wine permits**

The Legal Division was created as a separate division from the Executive Division.

The beer tax rate increased from \$2.00 per barrel to \$4.30 per barrel September 6, 1954.

*Licenses/permits created: wine and beer retailer's permit – excursion boat.*

1956    **267 Employees**    **6,210 Liquor permits**    **28,326 Beer licenses and wine permits**

1957    **306 Employees**    **6,487 Liquor permits**    **27,633 Beer licenses and wine permits**

The Enforcement Division added 25 inspectors.

A tax collecting facility on the international bridge at Presidio was opened.

All employees of the Board have received and receipted copies of HB 3, Regular Session of the 55<sup>th</sup> Legislature, "Code of Ethics" with suggested form for affidavit

attached..

1958	306 Employees	6,677 Liquor permits	27,750 Beer licenses and wine permits
1959	327 Employees	6,755 Liquor permits	27,971 Beer licenses and wine permits

Effective September 1, 1959, the Third Called Session of the 56<sup>th</sup> Legislature increased the tax on distilled spirits from \$1.408 to \$1.68 per gallon and the tax on wine was increased 20%.

The main offices in Austin moved into the Sam Houston State Office Building at 201 East 14<sup>th</sup> Street, Austin, Texas.

1960	327 Employees	6,264 Liquor permits	29,017 Beer licenses and wine permits
1961	363 Employees	7,126 Liquor permits	33,550 Beer licenses and wine permits

Investigations and examination of records of private clubs of which there have been 552 issued since this type of permit was authorized by the 57<sup>th</sup> Legislature and became effective September 1, 1961. These investigations consist of a thorough examination of all records of private clubs to determine the purpose of the club, the fees collected for the pool system and their uses, the bona fide membership on which permit fees are based, and the examination of lockers to legality.

*Licenses/permits created: nonresident brewer's permit, private club registration permit, wholesaler (local class B) permit and agent's beer license.*

1962	364 Employees	7,498 Liquor permits	34,290 Beer licenses and wine permits
1963	370 Employees	7,769 Liquor permits	34,905 Beer licenses and wine permits
1964	376 Employees	8,095 Liquor permits	35,513 Beer licenses and wine permits
1965	397 Employees	9,379 Liquor permits	35,710 Beer licenses and wine permits
1966	397 Employees	9,512 Liquor permits	35,632 Beer licenses and wine permits
1967	412 Employees	9,415 Liquor permits	35,796 Beer licenses and wine permits

With the addition of the Victoria District Office, the number of enforcement districts was expanded to 19.

1968    421 Employees    9,717 Liquor permits    36,422 Beer licenses and wine permits

The “Undercover Unit” in the Enforcement Division was changed to “Special Investigations.”

“In an effort to control this problem (underage drinking), the Texas Liquor Control Board has launched a many-pronged education program. The education program includes publication of pamphlets, booklets, news releases, letters to parents, showing of films, talks to civic, school, and parents’ groups, and use of radio public service announcements.”

1969    421 Employees    11,021 Liquor permits    37,279 Beer licenses and wine permits

Two new tax-collecting facilities at the ports of entry at Los Ebanos and Rio Grande City were opened.

*Licenses/permits created: airline beverage permit, private club late hours permit, nonresident manufacturer’s license and retail dealer’s on premise late hours license.*

1970    472 Employees    12,301 Liquor permits    39,327 Beer licenses and wine permits

The Board became the Texas Alcoholic Beverage Commission due to the passage of House Bill 379, 61<sup>st</sup> Legislature, Regular Session, 1969.

The Legal Division was renamed the Hearings Division and the Ports of Entry Division was separated from the Auditing Division.

A considerable portion of the Auditing Division’s responsibility was altered during the fiscal year as a result of SB 27 as passed by the 61<sup>st</sup> Legislature. This legislation eliminated tax stamps as the method of collecting taxes on distilled spirits and wine, and enacted a reporting system as the method of collections.

Additional personnel were authorized which were employed and trained for field auditing to verify that proper taxes and fees have been paid to the State and to collect additional taxes and fees due.

The Second Called Session of the 61<sup>st</sup> Legislature, HB 4, imposed a special private club service fee in the amount of five cents (\$0.05) for each individual serving of an alcoholic beverage by holders of Private Club Registration Permits and Airline Beverage Permits, which generated \$3,467,519.87.

A new tax collecting facility for ports of entry in Amistad was opened.

1971    **471 Employees       16,678 Liquor permits       39,671 Beer licenses and wine permits**

SB 346, 62<sup>nd</sup> Legislature, Regular Session authorized effective June 1, 1971, the sale and consumption of all alcoholic beverages on the premises of mixed beverage permits. In addition, HB 3, 62<sup>nd</sup> First called Session, imposed a 10% gross receipts tax on the sale or service of all alcoholic beverages by private clubs and mixed beverage permits. The 10% gross receipts tax became effective June 9, 1971, upon passage of the constitutional amendment. On July 1, 1971, HB 3 changed the excise taxes on distilled spirits, wine, malt liquor and beer. The \$0.05 service fee collected by private clubs was repealed effective June 8, 1971.

Enactment of liquor-by-the drink allowed the sale of mixed beverages. Until this time, the “open saloon” was prohibited by the state constitution. Also, the Mixed Beverage Tax Clearance Fund was created.

As the result of the repeal of the constitutional provision prohibiting open saloons and subsequent action by the Texas Legislature, 46 Texas counties were eligible to vote in a special election held on May 18, 1971, on the issue of the sale of mixed beverages. The vote in all 46 counties was in favor of the sale of mixed beverages.

*Licenses/permits created: beverage cartage permit, caterer's permit, daily temporary mixed beverage permit, local distributor's permit, mixed beverage permit, mixed beverage late hours permit and private club exemption certificate permit.*

1972    **522 Employees       18,941 Liquor permits       41,395 Beer licenses and wine permits**

The Auditing Division opened field offices in Amarillo, El Paso, Odessa and Corpus Christi on September 1, 1971, which expanded the auditing district offices to seven.

The 62<sup>nd</sup> Legislature, First Called Session, enacted HB 3 which authorized the refund to counties and incorporated cities or towns of 15% of the total gross receipts taxes collected in the particular political subdivision. Reports were furnished to the State Comptroller's Office on collections and disbursements.

The Enforcement Division's investigations unit was eliminated.

1973    **552 Employees       20,857 Liquor permits       42,809 Beer licenses and wine permits**

With the lowering of the age of majority (Article 5923b, V.A.C.S.), the legal age to consume alcoholic beverages was lowered to 18.

The Enforcement Division added a district office in Bryan increasing the number of district offices to 20.

*Permit created: wine and beer retailers off-premise permit.*

1974	563 Employees	21,692 Liquor permits	43,125 Beer licenses and wine permits
1975	568 Employees	23,060 Liquor permits	44,340 Beer licenses and wine permits
1976	622 Employees	24,247 Liquor permits	47,138 Beer licenses and wine permits

The Auditing Division added a district office in Longview increasing the number of Auditing district offices to eight.

1977	630 Employees	25,200 Liquor permits	47,922 Beer licenses and wine permits
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The Ports of Entry Division was moved under the Enforcement Division as a section.

The law was recodified into the Alcoholic Beverage Code.

*Licenses/permits created: temporary license and temporary wine and beer retailer's permit.*

1978	606 Employees	26,253 Liquor permits	47,945 Beer licenses and wine permits
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Shortly after the first of January 1978, organizational changes were brought about with respect to "support" services formerly located within the Accounting Division. Two new divisions were created: the Licenses and Permits Division which was made up of only the licensing activities from the old Accounting Division, and a new Administrative Services Division to handle fiscal affairs, data processing, printing and reproduction, supply distribution, shipping, mailing, purchasing, leasing and similar administrative service activities.

The Enforcement Division added a district office in Galveston increasing the number of district offices to 21.

The main offices in Austin relocated to 1600 West 38<sup>th</sup> Street.

1979    611 Employees    7,498 Liquor permits    34,290 Beer licenses and wine permits

The Auditing Division added three district offices in Austin, Fort Worth and McAllen increasing the number of Auditing district offices to 11.

*Licenses/permits created: local industrial alcohol manufacturer's permit and winery permit.*

1980    625 Employees    28,752 Liquor permits    49,503 Beer licenses and wine permits

The Auditing Division added a district office in Waco increasing the number of Auditing district offices to 12.

Cigarette taxes were collected at the ports of entry locations.

The agency purchased its first electronic computer system, the Prime-550 Mini-Computer, to replace the tabulating equipment. First programming staff was hired.

1981    621 Employees    31,255 Liquor permits    51,868 Beer licenses and wine permits

The legislature amended the age law (Acts, 1981 67<sup>th</sup> Legislature, Regular Session, Chapter 107) to raise the legal "drinking age" to 19 to rid alcoholic beverage consumption from high school age young people.

Tax collection stations at Fabens and Los Ebanos were closed.

1982    670 Employees    34,392 Liquor permits    54,727 Beer licenses and wine permits

1983    689 Employees    35,160 Liquor permits    55,182 Beer licenses and wine permits

The Commission began consulting services with Arthur Andersen Company for the design of a computer system.

To keep in the mainstream of mainframe computing within state government, a used IBM370/158 mainframe computer system was purchased in FY1983 for a bargain price of \$25,000 from the Texas Railroad Commission. This computer was used to develop an enhanced licensing and revenue collection system, and to automate many of the agency's out-dated manual systems. Also during this time the first computer center was constructed to house and secure the large computer.

Tax collection stations at Fabens and Los Ebanos were re-opened.

1984    **665 Employees**      **38,129 Liquor permits**      **53,358 Beer licenses and wine permits**

The agency was authorized to purchase of a fleet of automobiles for the law enforcement agents in the Enforcement Division.

The gross receipts tax was increased to 12% of gross receipts effective October 2, 1984.

1985    **677 Employees**      **35,389 Liquor permits**      **46,183 Beer licenses and wine permits**

In response to possible federal highway fund sanctions enumerated in Public Law 98-363, passed by the 98<sup>th</sup> Congress, a minor was defined as anyone under the age of 21 for the purposes of the Alcoholic Beverage Code.

The Commission, in working to reduce the number of purchases of alcoholic beverages by minors, during the past year started a training program to go into schools to discuss the “minor” problem with junior high school and senior high school students as well as teachers and counselors. The Commission also developed a training program for retail establishments aimed primarily at bartenders and servers of alcoholic beverages to teach them how to spot whether a person appears to be intoxicated and how to not continue to serve those patrons. This program also aims at the penalties of serving alcoholic beverages to a minor.

The state excise tax rates on alcoholic beverages were increased.

November 1985 the agency upgraded the IBM 370/158 Computer to a new IBM 4381 Model 2 Computer capable of handling the data processing needs of the agency for the next several years. IRD staff had grown to include a programming section of six programmers, a computer operations section of 5 operators, and a revenue processing section consisting of three data entry operators.

*Licenses/permits created: market research packager's permit and passenger train beverage permit.*

1986    **707 Employees**      **43,899 Liquor permits**      **58,469 Beer licenses and wine permits**

Data processing support expanded in the field offices in the early part of 1986, when all 21 of the agency's district offices were connected to the headquarters office via dedicated phone lines establishing a statewide network of information processing.

1987    708 Employees    36,487 Liquor permits    51,257 Beer licenses and wine permits

Legislature passes Texas Dram Shop Act and adds Section 106.14 to the Alcoholic Beverage Code, which provides a limited administrative shield for employers who require their employees to attend commission-approved seller training programs. Section 106.14 also authorizes agency to approve and regulate such programs.

On September 1, 1987, ports of entry administrative fee increased to \$.50 (HB 1978).

1988    698 Employees    36,202 Liquor permits    50,222 Beer licenses and wine permits

A seller training program is created as a consequence of prior passage of Section 106.14 of the Alcoholic Beverage Code by the legislature. The Commission begins collecting seller/server training and label approval fees.

1989    698 Employees    35,690 Liquor permits    49,147 Beer licenses and wine permits

As more users and application systems were added to the mainframe, computer-processing capacity became taxed in the late 80's. In FY1989, processing power was doubled with the upgrade to an IBM 4381 Model 14.

*Licenses/permits created: daily temporary private club permit and minibar permit.*

1990    748 Employees    35,477 Liquor permits    48,346 Beer licenses and wine permits

The gross receipts tax was increased to 14% of gross receipts.

House Bill 2260, 71<sup>st</sup> Legislature, Regular Session, transferred the regulation of the bingo industry and enforcement of the Bingo Enabling Act from the Office of the Comptroller of Public Accounts to the Commission, effective January 1, 1990.

Though minor stings were already an element of enforcement's routine, the Enforcement Division conducts first "minor stings" to test retailer compliance with Alcoholic Beverage Code provisions prohibiting sales to minors. Compliance found to be as low as 20% in some areas of the state.

On July 1, 1990, the cigarette tax increased to \$4.10 per carton (imposed on second carton and thereafter).

The commission moved the headquarter offices in Austin to 5806 Mesa Drive.

1991    714 Employees    35,060 Liquor permits    48,006 Beer licenses and wine permits

In late FY1991, the mainframe was upgraded to an IBM 4381 Model S24. The additional power would be needed to offset the expected transaction processing increase from the implementation of the Bingo Regulatory System (BRS). During FY1990-91, IRD experienced its largest growth in staff with an additional six programmers added during the biennium. This increase was primarily related to automated support of the transfer of bingo regulation from the State Comptroller's Office to the TABC in January 1990 and supporting the proliferation of personal computers within the last five years.

1992	679 Employees	34,940 Liquor permits	47,498 Beer licenses and wine permits
1993	651 Employees	35,287 Liquor permits	47,596 Beer licenses and wine permits

Effective August 31<sup>st</sup>, Fund 067 Confiscated Liquor Fund and Fund 479 Bingo Enforcement Fund were consolidated into Fund 001 General Revenue Fund, as part of a statewide funds consolidation effort.

The Enforcement Division divided the district offices into four regions, each supervised by a major.

The Enforcement Division obtains grant funding through TxDOT for new Cops In Shops program. Program implemented statewide.

*Licenses/permits created: bonded warehouse permit (dry area), package store tasting permit, private club beer and wine permit, winery storage permit, manufacturer's warehouse license, brewpub license, temporary – special three day wine and beer permit.*

1994	487 Employees	36,537 Liquor permits	47,501 Beer licenses and wine permits
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Effective January 1, 1994, the Mixed Beverage Tax Clearance Fund 068 and the gross receipts tax auditing and tax collection functions were transferred to the Comptroller of Public Accounts. Effective April 1, 1994, the bingo functions were transferred to the Lottery Commission.

On August 1, 1994, the Commission reorganization designated the Auditing Division as the Compliance Department, part of the new Licensing and Compliance Division. The reorganization resulted in the Compliance Department assuming numerous new duties, including the ports of entry and server training section and many non-law enforcement duties from the Enforcement Division. The compliance field offices were organized into four regions. The Resource Management Division was created with four

departments: Fiscal Services, Information Resources, General Services and Human Resources.

Retailer compliance rates, as tested by the agency's on-going minor sting program, now averages 64%.

1995      **464 Employees**      **36,643 Liquor permits**      **47,925 Beer licenses and wine permits**

Compliance officers assumed the duties associated with the confiscated property rooms and evidence lockers from the Enforcement Division as well as the record keeping associated with capital property. Transfer of these duties allowed enforcement personnel to devote more than 4,500 additional man-hours to law enforcement activities.

Ports of entry staffing is maintained through eight port offices, which in turn monitor 21 international crossings along the Texas-Mexico border. Personnel are assigned to 13 major crossings. The additional eight crossings are considered low-volume and are monitored on a random basis.

Enforcement receives grant funding through the Governor's Criminal Justice Division, which permits it to greatly expand Spring Break enforcement efforts along the Gulf Coast. Also receives initial funding for COPS program from TxDOT.

*Licenses/permits created: food and beverage certificate.*

1996      **481 Employees**      **40,736 Liquor permits**      **47,577 Beer licenses and wine permits**

The Licensing & Compliance Department assumed additional duties as a result of SB 1, HB 1419 and HB 984. These bills created alcohol-free school zones, a food and beverage certificate, and required conduct surety bonds on certain licensees/permittees.

Enforcement Division begins complete overhaul of its public education initiatives, especially those targeting young people. Development starts on Project SAVE, a new educational program for young people, with separate multi-lesson curriculums for different age groups.

The agency replaced its outdated mainframe system with new equipment. A five-year lease was negotiated with IBM that included a new 9221 CPU, disk storage system, and communications controller.

1997      **471 Employees**      **41,270 Liquor permits**      **48,076 Beer licenses and wine permits**

Ports of entry staffing is maintained through seven port offices, which in turn monitor 21 international crossings along the Texas-Mexico border. Personnel are assigned to 14

major crossings. The additional seven crossings are considered low-volume and are monitored on a random basis.

Development work on Project SAVE is completed. Program successfully pilot tested and implemented statewide. Over 183,000 young people attend SAVE classes during first year.

*Licenses/permits created: storage license and temporary permit –charitable auction permit.*

1998      489 Employees      42,433 Liquor permits      47,153 Beer licenses and wine permits

The Enforcement Division expanded from four regions to eight regions supervised by a major or captain. Reduces number of districts to 17.

Over 320,000 people attend educational programs taught by enforcement agents. Enforcement acquires “Every 15 Minutes,” a public domain educational program developed in California that targets high school students, and adapts that program for use in Texas as “Shattered Dreams.” Enforcement agents also initiate first Safe Prom/Safe Graduation campaign to reduce alcohol-related deaths and injuries associated with teen parties during the spring prom and graduation season. The campaign is partially funded by a grant from TxDOT.

Retailer compliance rate as measured by minor stings now 76%.

1999      500 Employees      43,153 Liquor permits      46,459 Beer licenses and wine permits

Ports of entry staffing is maintained through seven port offices, which in turn monitor 26 international crossings along the Texas-Mexico border. Personnel are assigned to 16 major crossings (Eagle Pass and VIB added). The additional ten crossings are considered low-volume and are monitored on a random basis.

On September 1, 1999, Ports of Entry commences to collect \$4.10 per carton state tax imposed on all cigarettes imported into Texas at the border. (HB 3600)

The agency’s credit law delinquent list was published electronically on the agency’s web page.

The commission joins Mothers Against Drunk Driving as co-sponsor of MADD’s Youth Power Camps. Enforcement agents serve as camp counselors and instructors at the two

youth leadership training camps held that summer.

*Permit created: mixed beverage restaurant permit with food and beverage certificate.*

2000      512 Employees      42,330 Liquor permits      45,979 Beer licenses and wine permits

Commission received a federal traffic safety grant through TxDOT to study effectiveness of various supply side interventions and hired researchers from UT School of Social Work to conduct study. The study found that large numbers of servers and their employers (57 - 73%) were not taking advantage of agency sponsored or agency provided training opportunities and that significant numbers continued to make illegal sales when presented with an opportunity to do so. This was found to be especially true with regards to sales to intoxicated persons. Over 80% of the clerks and servers tested using pseudo patrons exhibiting obvious signs of intoxication sold alcoholic beverages to those apparently intoxicated patrons.

Commission also receives federal funding through the Governor's Criminal Justice Division to buy an automated case management system. Additional grants are received to support Enforcement's COPS, On-Premises Minor Stings, Spring Break, Safe Prom/Safe Graduation, and Shattered Dreams programs, as well as to sponsor Youth Alcohol Workshops.

2001      508 Employees      44,361 Liquor permits      48,784 Beer licenses and wine permits

Grant funding continues for Shattered Dreams, Spring Break enforcement activities, and On-Premises Minor Stings. New grants received to support Youth Power Camps, a Repeat Offender Program, and the agency's Report Underage Drinking - Complaint Hotline.

Enforcement, in response to a UT study, revamps its educational program for retailers and their employees and repackages the revised program as "SAVE for Retailers." "SAVE for Retailers used as remedial education tool with offenders identified during course of Repeat Offender operations. Enforcement also develops new program for wholesale tier of industry.

Enforcement also begins work on new enforcement program to reduce sales to intoxicated persons.

The Alliance Against Underage Drinking, a coalition of interested state agencies, statewide nonprofits, and industry groups, is organized with TABC participation and support.

Completion of a Wide Area Network (WAN) to support field personnel access to a

number of TCP/IP based resources including the World Wide Web, Internet e-mail, client/server applications, and remote printing and file sharing.

Migration of the agency's data center to WTDROC in July.

2002      **502 Employees**      **51,127 Liquor permits**      **49,621 Beer licenses and wine permits**

Governor's Office passes administrative responsibility for the EUDL (Enforcement of Underage Drinking Laws) block grant to the TABC.

Ports of entry staffing is maintained through six port offices (El Paso, Eagle Pass, Laredo, Hidalgo, Progreso and Brownsville), which in turn monitor 26 international crossings along the Texas-Mexico border. Personnel are assigned to 18 major crossings. The additional eight crossings (Stanton Street Bridge-El Paso, Ft. Hancock-El Paso, Amistad Dam, Columbia-Laredo, World Trade Bridge-Laredo, Falcon Dam-Hidalgo, Rio Grande City and Los Indios) are considered low-volume and are monitored on a random basis.

Enforcement continues to develop a model for a new initiative to reduce sales to intoxicated persons and field-tests certain aspects of that model. Grant support continues for agency Shattered Dreams, Mardi Gras/Spring Break, and On-Premises Minor Sting projects.

Longview Enforcement District develops and successfully tests model for TABC led multi-jurisdictional alcohol enforcement task force. As a result of this work, AVERT (Alcohol Violation Enforcement Response Team)

Education program attendance tops 460,000. Minor sting compliance rate exceeds 80%.

Implementation of Internet based video conferencing technology in 16 field offices during FY2002 to conduct administrative hearings, remote training events, and staff meetings.

Refresh of the agency's entire desktop computer inventory.

2003      **540.5 Budgeted Employees**      **Over 100,000 licenses and permits estimated**

Through the Enforcing Underage Drinking Laws block grant, the commission advertises for proposals and awards its first grants. The Grants and Planning Section is created to administer and monitor the grants.

Enforcement conducts a full pilot test of SSIP (Stopping Sales to Intoxicated Persons) program in Dallas/Fort Worth metropolitan area in partnership with PIRE (Pacific Institute for Research and Evaluation).

Responding to a growing need for more resources for its law enforcement activities and recognizing that some of its prevention partners have developed new educational programs for young people that are superior to its own Project SAVE, the agency's Enforcement Division decides to refocus its educational efforts to avoid duplicative effort and to concentrate on the types of programs that its agents do best-- Shattered Dreams, licensee/permittee education, and alcohol enforcement training for peace officers and other criminal justice professionals. While this is expected to result in a significant decrease in educational outputs, it is also expected to free more resources for complex investigations, special operations, and inspection coverage.

The commission partners with various other agencies, non-profits, industry groups, and individual retailers to create a series of public information campaigns targeting underage drinking and drunk driving. Radio ads are produced and played during Dallas Cowboy games thanks to a partnership with the Dallas Cowboy Radio Network and the Texas Package Store Association. Message-carrying pump toppers, posters, and other theme materials go up across the state thanks to the participation of retailers such as Big Diamond and Brookshire Brothers.

### III. Policymaking Structure

**A. Please complete the following chart:**

**Texas Alcoholic Beverage Commission  
Exhibit 3: Policymaking Body**

Member Name	Term/ Appointment Dates/ Appointed by ____ (e.g., Governor, Lt. Governor, Speaker)	Qualification (e.g., public member, industry representative)	Address	Telephone & Fax Numbers	E-mail Address
John T. Steen, Jr.	1/26/98 - 11/15/03 (Appointed Chairman 4/30/02) Appointed by Governor	Public Member	300 Convent St., #2440 San Antonio, Tx 78205	210 224-7700 210 225-1420	jtsteen@swbell.net
Gail Madden	4/14/00 - 11/15/05 Appointed by Governor	Public Member	4520 Belfort Dallas, Tx 75205	214 526-7635 214 526-5999	ghmadden@swbell.net
Kel Seliger	4/30/02 - 11/15/07 Appointed by Governor	Public Member	P. O. Box 31748 Amarillo, Tx 79120	806 383-7141 806 383-0130	kel@lakesteel.com

**B. How is the chair of the policymaking body appointed?**

By the Governor.

**C. Describe the primary role and responsibilities of the policymaking body.**

The primary duties of the three-member body include the development of agency policy and adoption of rules to carry out provisions of the Alcoholic Beverage Code. The commission selects the administrator and internal auditor of the agency and acts on recommendations of staff for the legislative appropriations request.

Under commissioners' rulemaking authority, the administrator or his designee is delegated jurisdiction in employment and terminating personnel, including determinations of job duties and salary money; granting, refusing, suspending or cancelling licenses and permits and all matters in connection with hearings; certifying records, notices and investigations of alleged violations of law.

**D. List any special circumstances or unique features about the policymaking body or its responsibilities.**

Each member must be a Texas resident, must have resided in the state for at least five years preceding appointment and must be a qualified voter in the state. A member is not eligible if the person's spouse is

disqualified for appointment nor may they be a registered lobbyist. A member may not serve if the member has any financial connection with a person engaged in the alcoholic beverage business, holds any stocks or bonds in an alcoholic beverage business or has a pecuniary interest in the alcoholic beverage business.

**E. In general, how often does the policymaking body meet? How many times did it meet in FY 2002? in FY 2003?**

The policymaking body generally meets once a month on the 4<sup>th</sup> Monday at 1:30 p.m. In 2002, the policymaking body met 11 times, and in 2003, they have met 10 times (as of August 18<sup>th</sup>).

**F. What type of training do the agency's policymaking body members receive?**

The policy making body receives training that is offered by the Governor's Office for all appointed members of boards. In addition, a detailed department briefing is offered to newly appointed members by the agency. In the past year, the agency has provided staff presentations in all program areas and some support functions during commission meetings to further enhance the members' knowledge of the agency.

**G. Does the agency have policies that describe the respective roles of the policymaking body and agency staff in running the agency? If so, please describe these policies.**

The commission has delegated certain powers to the administrator of the agency in Rule 31.1. It states:

**“§31.1. Powers Delegated to the Administrator.**

- “(a) The administrator, or his designee, is hereby given jurisdiction in the following matters:
  - “(1) appointing, employing and terminating all personnel and fixing their duties and salaries;
  - “(2) commissioning agents, representatives, and employees;
  - “(3) granting and refusing permits and licenses, and all other matters in connection with hearings thereon;
  - “(4) cancellation and suspension of permits and licenses, and all matters in connection with hearings thereon;
  - “(5) to designate representatives of the commission to hold hearings as provided by law;
  - “(6) certifying to the authenticity of all records, notices, orders, publications, rules and all other documents, records, and reports in possession of the commission;
  - “(7) investigation of, and all matters in connection with alleged violations of law by wholesalers, brewers, distillers, wineries, manufacturers and agents, servants and employees of the same.

“(b) Notwithstanding any provision in subsection (a) of this section, the commission reserves unto itself the following authority specified in this subsection. The administrator must obtain advance approval from the commission in order to appoint, employ, terminate, discipline, transfer, reclassify or change the powers, duties or responsibilities of the internal auditor.

“(c) The administrator is hereby given the power and it is hereby made his duty to make and execute the affidavits required by the provisions of an act of the legislature making appropriations for the support and maintenance of the administrative departments and agencies of the state government, which act requires that every month the head of each department shall attach to the payroll of his department an affidavit to the payroll of such department, stating that the persons listed on said payroll actually performed the duties for which they are being paid.”

**H. If the policymaking body uses subcommittees or advisory committees to carry out its duties, please fill in the following chart. See Exhibit 4 Example or [click here to link directly to the example](#).**

<b>Texas Alcoholic Beverage Commission Exhibit 4: Subcommittees and Advisory Committees</b>			
<b>Name of Subcommittee or Advisory Committee</b>	<b>Size/Composition/How are members appointed</b>	<b>Purpose/Duties</b>	<b>Legal Basis for Committee</b>
N/A			

**I. How does the policymaking body obtain input from the public regarding issues under the jurisdiction of the agency? How is this input incorporated into the operations of the agency?**

Each public meeting, which generally occurs monthly, an agenda item is reserved for public comment. Any interested party may share concerns, comment or complaint with the commission members at that time.

If rules are to be adopted, the public is invited to comment on any proposal before the commission.

Members of the public and regulated industry may correspond or call commission members.

Depending on the content of the call, it may be referred to the administrator of the agency or other staff for attention or added to the agenda for the next commission meeting.

The agency also holds public forums annually throughout the state. Commissioners attend any or all of the forums as their schedules allow.

## **IV. Funding**

**A. Describe the agency's process for determining budgetary needs and priorities.**

1. Baseline needs for maintaining base services are determined using past operating budgets and performance measures. Above baseline needs are determined through identifying new legislative mandates that the agency may have and by prioritizing new initiatives.
2. Each department director provides input as to their department needs based on the performance targets established, new initiatives, inflationary impact and historical expenditures.
3. A draft operating budget, based on this input and a historical expenditure analysis, is prepared and distributed to executive staff and department managers.
4. The draft operating budget is reviewed by executive staff as well as department directors; changes may be requested at this point. Budget adjustments are considered if sufficient justification exists for the change.
5. Executive staff reviews final version of operating budget and agrees to submit budget to the TABC board.
6. The agency's operating budget is submitted to the board for approval.

**PLEASE FILL IN EACH OF THE CHARTS BELOW, USING EXACT DOLLAR AMOUNTS.**

**B. Show the agency's sources of revenue. Please include all local, state, and federal appropriations, all professional and operating fees, and all other sources of revenue collected by the agency. See Exhibit 5 Example or [click here to link directly to the example](#).**

**Texas Alcoholic Beverage Commission  
Exhibit 5: Sources of Revenue — Fiscal Year 2002 (Actual)**

<b>Source</b>	<b>Amount</b>
General Revenue (LAR)	\$24,332.734
Rider 11, POE Bridges (LAR)	508,518
Rider 12, Licensing (LAR)	109,248

Article IX, Section 10.35, Contingency Rider, HB 892 (Transfer to Department of Agriculture) - LAR	250,000
Article IX, Section 10.36, Contingency Rider, SB 311 (Reverse Auction Transfer) - LAR	-8761
Benefit Replacement Pay, Transfer in from Agency 902 (Actual-AFR)	335,423
Salary Increase, Transfer in From Agency 902 (Actual-AFR)	696,271
Longevity Pay Increase, Transfer from Agency 902 (Actual-AFR)	93,440
Worker Comp, Transfer in from SORM (Actual-AFR)	428,609
Lapse, Governor's Office Savings Request Letter (LAR)	-23,500
Inter-Agency Contracts (USAS)	234,294
Federal Revenues (USAS)	1,691
Appropriated Receipts (USAS)	108,660
<b>TOTAL</b>	<b>\$27,066,627</b>

C. If you receive funds from multiple federal programs, show the types of federal funding sources. See Exhibit 6 Example or [click here to link directly to the example](#).

<b>Texas Alcoholic Beverage Commission Exhibit 6: Federal Funds — Fiscal Year 2002 (Actual)</b>				
Type of Fund	State/Federal Match Ratio	State Share	Federal Share	Total Funding
Brazos County Inter-Local Agreement	N/A	N/A	\$1,691	\$1,691
<b>TOTAL</b>		<b>N/A</b>	<b>\$1,691</b>	<b>\$1,691</b>

D. If applicable, please provide detailed information on fees collected by the agency. See Exhibit 7 Example or [click here to link directly to the example](#).

**Texas Alcoholic Beverage Commission  
Exhibit 7: Fee Revenue and Statutory Fee Levels — Fiscal Year 2002**

*Self-Evaluation Report*

Description/ Program/ Statutory Citation	Current Fee/ Statutory maximum	Surcharge	Number of persons or entities paying fee	Fee Revenue	Where Fee Revenue is Deposited (e.g., General Revenue Fund)
Agent's Permit	\$10	\$36	10,753	\$494,638	Unappropriated GR
Airline Beverage Permit	\$2,200	\$75	100	\$227,500	Unappropriated GR
Beverage Cartage Permit	\$20	\$60	5,756	\$460,480	Unappropriated GR
Bonded Warehouse Permit	\$150	\$26	7	\$1,232	Unappropriated GR
Brewer's Permit	\$1,500	\$147	10	\$16,470	Unappropriated GR
Carrier's Permit	\$30	\$55	518	\$44,030	Unappropriated GR
Caterer's Permit	\$500	\$45	1,029	\$560,805	Unappropriated GR
Daily Temporary Mixed Beverage Permit (Per Day)	\$50	\$60	494	\$54,340	Unappropriated GR
Daily Temporary Private Club Registration Permit	\$50	\$60	125	\$13,750	Unappropriated GR
Distiller's & Rectifier's Permit	\$1,500	\$55	1	\$1,555	Unappropriated GR
Food & Beverage Certificate	\$100	\$80	3,948	\$710,640	Unappropriated GR
Forwarding Center Authority	\$1,000	\$4	26	\$26,104	Unappropriated GR
Industrial Permit	\$60	\$88	59	\$8,732	Unappropriated GR
Local Cartage Permit	\$30	\$40	822	\$57,540	Unappropriated GR
Local Distributor's Permit	\$100	\$45	553	\$80,185	Unappropriated GR
Local Industrial Alcohol Manufacturer's Permit	\$100	\$50	3	\$450	Unappropriated GR
Manufacturer's Agent's Permit	\$10	\$40	600	\$30,000	Unappropriated GR
Mini Bar Permit Original	\$2,000	\$75	6	\$12,450	Unappropriated GR
Mini Bar Permit 1 <sup>st</sup> Renewal	\$1,500	\$75	8	\$12,600	Unappropriated GR
Mini Bar Permit 2 <sup>nd</sup> Renewal	\$1,000	\$75	6	\$6,450	Unappropriated GR
Mini Bar Permit 3 <sup>rd</sup> Renewal	\$750	\$75	34	\$28,050	Unappropriated GR

Mixed Beverage Permit Original	\$3,000	\$80	1,069	\$3,292,520	Unappropriated GR
Mixed Beverage Permit 1 <sup>st</sup> Renewal	\$2,250	\$80	1,017	\$2,369,860	Unappropriated GR
Mixed Beverage Permit 2 <sup>nd</sup> Renewal	\$1,500	\$80	867	\$1,369,860	Unappropriated GR
Mixed Beverage Permit 3 <sup>rd</sup> or Subsequent Renewals	\$750	\$80	5,334	\$4,427,220	Unappropriated GR
Mixed Beverage Permit with Food and Beverage	\$3,000	\$80	35	\$107,800	Unappropriated GR
Mixed Beverage Permit with Food and Beverage 1 <sup>st</sup> Renewal	\$2,250	\$80	2	\$4,660	Unappropriated GR
Mixed Beverage Permit with Food and Beverage 2 <sup>nd</sup> Renewal	\$1,500	\$80	3	\$4,740	Unappropriated GR
Mixed Beverage Permit with Food and Beverage 3 <sup>rd</sup> or Subsequent Renewals	\$750	\$80	0	0	Unappropriated GR
Mixed Beverage Late Hours Permit	\$150	\$65	5,647	\$1,214,105	Unappropriated GR
Non-Resident Brewer's Permit	\$1,500	\$29	151	\$230,879	Unappropriated GR
Non-Resident Seller's Permit	\$150	\$60	1,210	\$254,100	Unappropriated GR
Package Store Permit	\$500	\$45	2,306	\$1,256,770	Unappropriated GR
Package Store Tasting Permit	\$25	\$19	680	\$29,920	Unappropriated GR
Wine Only Package Store Permit	\$75	\$45	3,837	\$460,440	Unappropriated GR
Passenger Train Beverage Permit	\$500	\$67	3	\$1,701	Unappropriated GR
Private Carrier's Permit	\$30	\$50	323	\$25,840	Unappropriated GR
Private Club Exemption Certificate	\$0	\$0	479	\$0	Unappropriated GR
Private Club Registration Permit (1-250)	\$750	\$106	942	\$806,352	Unappropriated GR

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Private Club Registration Permit (251-450)	\$1,350	\$106	116	\$168,896	Unappropriated GR
Private Club Registration Permit (451-650)	\$1,950	\$106	34	\$69,904	Unappropriated GR
Private Club Registration Permit (651-850)	\$2,550	\$106	8	\$21,248	Unappropriated GR
Private Club Registration Permit (851-1,000)	\$3,000	\$106	4	\$12,424	Unappropriated GR
Private Club Registration Permit (Over 1,000)	\$3 per member	\$106	1	\$9,745	Unappropriated GR
Private Club Registration Permit Original	\$3,500	\$106	132	\$475,992	Unappropriated GR
Private Club Registration Permit 1 <sup>st</sup> Renewal	\$2,750	\$106	171	\$488,376	Unappropriated GR
Private Club Registration Permit 2 <sup>nd</sup> or Subsequent Renewals	\$2,000	\$106	963	\$2,028,078	Unappropriated GR
Private Club Beer & Wine Permit	\$1,500	\$75	109	\$171,675	Unappropriated GR
Private Club Late Hours Permit	\$750	\$65	476	\$387,940	Unappropriated GR
Private Storage Permit	\$100	\$19	6	\$714	Unappropriated GR
Public Storage Permit	\$100	\$19	7	\$833	Unappropriated GR
Wholesaler's Permit	\$1,875	\$116	85	\$169,235	Unappropriated GR
General Class B Wholesaler's Permit	\$300	\$116	191	\$79,456	Unappropriated GR
Local Class B Wholesaler's Permit	\$75	\$116	13	\$2,483	Unappropriated GR
Wine & Beer Retailer's Permit Excursion Boat	\$130	\$52	15	\$2,730	Unappropriated GR
Wine and Beer Retailer's Permit Railway Car	\$30	\$50	0	\$0	Unappropriated GR
Wine Bottler's Permit	\$225	\$116	46	\$15,686	Unappropriated GR

Winery Permit	\$75	\$157	66	\$15,312	Unappropriated GR
Winery Storage Permit	\$100	\$35	0	\$0	Unappropriated GR
Agent's Beer License	\$10	\$36	11,320	\$520,720	Unappropriated GR
Branch Distributor's License	\$75	\$116	84	\$16,044	Unappropriated GR
General Distributor's License	\$300	\$116	126	\$52,416	Unappropriated GR
Importer's License	\$20	\$85	194	\$20,370	Unappropriated GR
Importer's Carrier's License	\$20	\$35	26	\$1,430	Unappropriated GR
Local Distributor's License	\$75	\$96	1	\$171	Unappropriated GR
Manufacturer's License	\$750	\$147	11	\$9,867	Unappropriated GR
Manufacturer's Warehouse License	\$300	\$106	6	\$2,436	Unappropriated GR
Non-Resident Manufacturer's License	\$750	\$60	149	\$120,690	Unappropriated GR
Brewpub License	\$500	\$60	26	\$14,560	Unappropriated GR
Beer Retailer's Off-Premise License	\$60	\$45	7,889	\$828,345	Unappropriated GR
Beer Retailer's On-Premise License	\$150	\$45	2,033	\$396,435	Unappropriated GR
Retail Dealer's On-Premise Late House License	\$250	\$45	2,728	\$804,760	Unappropriated GR
Storage License	\$200	\$19	1	\$219	Unappropriated GR
Temporary License	\$30	\$40	4,741	\$331,870	Unappropriated GR
Temporary Charitable Auction Permit	\$25	\$40	32	\$2,080	Unappropriated GR
Wine and Beer Retailer's Permit	\$175	\$45	9,229	\$2,030,380	Unappropriated GR
Wine and Beer Retailer's Off-Premise Permit	\$60	\$45	11,024	\$1,157,520	Unappropriated GR
<b>TOTAL FEES &amp; SURCHARGES</b>				<b>\$29,135,558</b>	
<b>Total Fees</b>				<b>\$23,984,554</b>	
<b>Total Surcharges</b>				<b>\$5,151,004</b>	

- E. Show the agency's expenditures by strategy. See Exhibit 8 Example or [click here to link directly to the example.](#)

**Texas Alcoholic Beverage Commission**  
**Exhibit 8: Expenditures by Strategy — Fiscal Year 2002 (Actual)**

Goal/Strategy	Amount
<b>A. Goal: Regulate Distribution</b>	
A.1.1 Deter and Detect Violations	\$15,830,352
<b>B. Goal: Process TABC Applications</b>	
B.1.1 Ensure Law Compliance	\$ 1,759,479
<b>C. Goal: Collect Fees and Taxes</b>	
C.1.1 Compliance Monitoring	\$ 2,624,062
C.2.1 Ports of Entry	3,057,261
<b>Total, Goal C: Collect Fees and axes</b>	<b>\$ 5,681,323</b>
<b>D. Goal: Indirect Administration</b>	
D.1.1 Central Administration	\$ 1,534,431
D.1.2 Information Resources	1,180,144
D.1.3 Other Support Services	566,123
<b>Total: Goal D: Indirect Administration</b>	<b>\$ 3,280,698</b>
<b>GRAND TOTAL:</b>	<b>\$26,551,852</b>

- F. Show the agency's expenditures and FTEs by program. See Exhibit 9 Example or [click here to link directly to the example.](#)

**Texas Alcoholic Beverage Commission**  
**Exhibit 9: Expenditures and FTEs by Program — Fiscal Year 2002 (Actual)**

Program	Budgeted FTEs, FY 2002	Actual FTEs as of August 31, 2002	Federal Funds Expended	State Funds Expended	Total Actual Expenditures

Executive Department	5	5		\$ 438,723	\$ 438,723
Legal Department	7.75	7.75		435,939	435,939
General Counsel	2	2		136,930	136,930
Agency-wide				667,151	667,151
Fiscal Services	10	10		443,949	443,949
Human Resources - Main	5	5		259,313	259,313
Human Resources - Training	3	3		149,885	149,885
Information Resources	15	14		1,164,374	1,164,374
General Services - Main	12	12		551,947	551,947
General Services - Fleet	4	4		225,665	225,665
Regulatory Director	1	1		93,339	93,339
Licensing	40.25	39.25		1,503,662	1,503,662
Compliance	51	48		2,515,549	2,515,549
Ports of Entry	103	96		2,968,710	2,968,710
Enforcement	278	256	1,737	14,868,507	14,870,244
Central Store				34,664	34,664
Director RMD	1	1		91,808	91,808
<b>TOTAL</b>	<b>538</b>	<b>504</b>	<b>1,737</b>	<b>\$26,550,115</b>	<b>\$26,551,852</b>

G. Show the agency's objects of expense for each category of expense listed for your agency in the General Appropriations Act FY 2004-2005. See Exhibit 10 Example or [click here to link directly to the example](#). Add columns and rows as necessary.

Texas Alcoholic Beverage Commission Exhibit 10: Objects of Expense by Program or Function -- Fiscal Year 2004				
Object-of-Expense Informational Listing	Strategy- Deter and Detect	Strategy- Ensure Law Compliance	Strategy- Compliance Monitoring	Strategy - Ports of Entry
Salaries	\$12,054,300	\$1,455,131	\$3,182,114	\$2,689,477

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Other Personnel	575,946	77,319	160,625	47,904
Professional Fees/Services	56,632	4,876	0	0
Fuels and Lubricants	228,698			52
Consumable Supplies	102,726	23,875	13,956	9,905
Utilities	118,803	7,176	21,876	25,163
Travel	178,744	9,690	191,627	28,438
Rent-Building	798,241	175,011	250,355	107,359
Rent-Machine/Other	235,752	27,358	42,421	9,240
Other Operating	781,342	164,645	717,111	96,962
Capital	717,500		461,227	0
<b>Total, FY 2004 Object-of-Expense Informational Listing</b>	<b>\$15,848,684</b>	<b>\$1,945,081</b>	<b>\$5,041,312</b>	<b>\$3,014,500</b>

Texas Alcoholic Beverage Commission Exhibit 10: Objects of Expense by Program or Function -- Fiscal Year 2004 (continued)			
Object-of-Expense Informational Listing	Strategy- Central Administration	Strategy- Information Resources	Strategy- Other Support
Salaries	\$1,213,816	\$ 528,756	\$423,906
Other Personnel	49,188	33,777	25,560
Professional Fees/Services	8,555	951,628	1,432
Fuels and Lubricants	325		1,644
Consumable Supplies	14,827	10,253	4,571
Utilities	7,200	14,140	3,487
Travel	24,198	11,850	3,701
Rent-Building	143,438	97,134	74,365

Rent-Machine/Other	21,101	307,900	11,635
Other Operating	34,811	248,791	20,225
Capital		174,000	0
<b>Total, FY 2005 Object-of-Expense Informational Listing</b>	<b>\$1,517,459</b>	<b>\$2,378,229</b>	<b>\$570,526</b>

**Texas Alcoholic Beverage Commission**  
**Exhibit 10: Objects of Expense by Program or Function -- Fiscal Year 2005**

<b>Object-of-Expense Informational Listing</b>	<b>Strategy- Deter and Detect</b>	<b>Strategy- Ensure Law Compliance</b>	<b>Strategy- Compliance Monitoring</b>	<b>Strategy - Ports of Entry</b>
Salaries	\$12,053,456	\$1,455,722	\$3,561,123	\$2,695,591
Other Personnel	577,212	76,431	160,245	53,352
Professional Fees/Services	56,632	4,876	27,894	27,367
Fuels and Lubricants	228,698			
Consumable Supplies	102,726	23,875	24,688	9,000
Utilities	118,803	7,176	10,881	21,624
Travel	178,744	9,690	94,008	25,072
Rent-Building	813,354	178,512	209,755	99,439
Rent-Machine/Other	235,752	27,358	53,844	9,466
Other Operating	782,899	158,370	377,089	75,539
Capital	676,500		25,300	
<b>Total, FY 2004 Object-of-Expense Informational Listing</b>	<b>\$15,824,776</b>	<b>\$1,942,010</b>	<b>\$4,544,827</b>	<b>\$3,016,450</b>

**Texas Alcoholic Beverage Commission**  
**Exhibit 10: Objects of Expense by Program or Function -- Fiscal Year 2005 (continued)**

Object-of-Expense Informational Listing	Strategy- Central Administration	Strategy- Information Resources	Strategy- Other Support
Salaries	\$1,240,330	\$ 528,756	\$423,905
Other Personnel	\$49,188	33,777	23,777
Professional Fees/Services	8,555	951,628	1,432
Fuels and Lubricants	325		1,644
Consumable Supplies	15,457	10,253	4,571
Utilities	6,303	14,140	3,487
Travel	24,198	850	3,701
Rent-Building	146,527	97,134	75,852
Rent-Machine/Other	21,101	307,900	11,635
Other Operating	34,661	214,653	19,692
Capital			
<b>Total, FY 2005 Object-of-Expense Informational Listing</b>	<b>\$1,546,645</b>	<b>\$2,159,091</b>	<b>\$569,696</b>

H. Please fill in the following chart. See Exhibit 11 Example or [click here to link directly to the example.](#)

Texas Alcoholic Beverage Commission Exhibit 11: Purchases from HUBs				
FISCAL YEAR 2000				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	N/A	N/A	N/A	11.9%
Building Construction	\$18,422.00	0	0%	26.1%
Special Trade	\$4,450.50	0	0%	57.2%
Professional Services	\$410.00	\$290.00	70.7%	20.0%

<b>Other Services</b>	\$584,095.34	\$154,982.26	26.5%	33.0%
<b>Commodities</b>	\$2,176,652.92	\$394,004.72	18.1%	12.6%
<b>TOTAL</b>	<b>\$2,784,030.76</b>	<b>\$549,276.98</b>	<b>19.7%</b>	<b>N/A</b>
<b>FISCAL YEAR 2001</b>				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
<b>Heavy Construction</b>	N/A	N/A	N/A	11.9%
<b>Building Construction</b>	N/A	N/A	N/A	26.1%
<b>Special Trade</b>	\$9,182.96	0	0%	57.2%
<b>Professional Services</b>	\$34,712.00	0	0%	20.0%
<b>Other Services</b>	\$535,523.11	\$56,034.37	10.5%	33.0%
<b>Commodities</b>	\$1,831,613.16	\$185,106.92	10.1%	12.6%
<b>TOTAL</b>	<b>\$2,411,031.23</b>	<b>\$241,141.29</b>	<b>10.0%</b>	<b>N/A</b>
<b>FISCAL YEAR 2002</b>				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
<b>Heavy Construction</b>	N/A	N/A	N/A	11.9%
<b>Building Construction</b>	N/A	N/A	N/A	26.1%
<b>Special Trade</b>	\$7,242.88	0	0%	57.2%
<b>Professional Services</b>	\$63,715.00	0	0%	20.0%
<b>Other Services</b>	\$635,715.78	\$93,057.10	14.6%	33.0%
<b>Commodities</b>	\$1,412,673.35	\$314,226.37	22.2%	12.6%
<b>TOTAL</b>	<b>\$2,119,347.01</b>	<b>\$407,283.47</b>	<b>19.2%</b>	<b>N/A</b>

**I. Does the agency have a HUB policy? How does the agency address performance shortfalls related to the policy?**

The agency has a HUB policy and changes were most recently adopted in April 2002. Shortfalls are addressed through monthly, quarterly and annual reporting requirements from agency personnel at the location/departmental level to ensure compliance and scheduled HUB training and awareness initiatives with agency supervisory staff. The agency has a designated HUB representative in each office statewide to coordinate local HUB purchases, and the coordinators interact monthly with central procurement.

**J. For agencies with contracts valued at \$100,000 or more:**

	<b>Response/ Agency Contact</b>
Does your agency follow a HUB subcontracting plan to solicit bids, proposals, offers, or other applicable expressions of interest for subcontracting opportunities available under contracts of \$100,000 or more? (Tex. Government Code, Sec. 2161.252; TAC 111.14)	Yes, even though the agency has had few contracts exceeding this threshold over the past few years.

**K. For agencies with biennial appropriations exceeding \$10 million:**

	<b>Response/ Agency Contact</b>
Do you have a HUB coordinator? (Tex. Government Code, Sec. 2161.062; TAC 111.126)	Yes: Leigh Bailey Purchasing Manager/HUB Coordinator <a href="mailto:l.bailey@tabc.state.tx.us">l.bailey@tabc.state.tx.us</a> 512 206-3262 512 206-3274
Has your agency designed a program of HUB forums in which businesses are invited to deliver presentations that demonstrate their capability to do business with your agency? (Tex. Government Code, Sec. 2161.066; TAC 111.127)	Due to the agency's size and limited capital funding, we have partnered with sister agencies in the past in this endeavor. HUB contacts from our external web site and HUBs registered through TBPC are invited for individual presentations.
Has your agency developed a mentor-protege program to foster long-term relationships between prime contractors and HUBs and to increase the ability of HUBs to contract with the state or to receive subcontracts under a state contract? (Tex. Government Code, Sec. 2161.065; TAC 111.128)	Yes. Posted on the agency's external website.

## V.Organziation

- A. Please fill in the chart below. If applicable, list field or regional offices. See Exhibit 12 Example or [click here to link directly to the example](#).

<b>Texas Alcoholic Beverage Commission</b> <b>Exhibit 12: FTEs by Location — Fiscal Year 2002</b>			
<b>Headquarters, Region, or Field Office</b>	<b>Location</b>	<b>Number of Budgeted FTEs, FY 2002</b>	<b>Number of Actual FTEs as of August 31, 2002</b>
Headquarters	Austin	138	131
	Warehouse	4	4
Region 1 - Enforcement	Amarillo	6	4
	Lubbock	7	6
	Wichita Falls	5	5
	Vernon Outpost	1	1
Region 2 - Enforcement	Fort Worth	18	15
	Mineral Wells Outpost	1	1
	Dallas	20	16
	Denton Outpost	2	2
	McKinney Outpost	5	4
	Sherman Outpost	1	1
	Greenville Outpost	1	1
	Terrell Outpost	1	1
Region 3 - Enforcement	El Paso	10	9
	Odessa	10	10
	Big Springs Outpost	1	1
Region 4 - Enforcement	Abilene	8	8
	San Angelo Outpost	2	2
	Waco	8	8
	Bryan Outpost	7	6
	Athens Outpost	1	1

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	Belton Outpost	2	2
Region 5 - Enforcement	Longview	5	5
	Nacogdoches Outpost	2	2
	Tyler Outpost	1	1
	Texarkana Outpost	1	1
	Beaumont	10	8
	Conroe Outpost	3	3
	Huntsville Outpost	2	2
Region 6 - Enforcement	Houston	34	33
	Galveston Outpost	7	7
Region 7 - Enforcement	Austin	15	13
	Bastrop Outpost	1	1
	Georgetown Outpost	1	1
	Llano Outpost	1	1
	San Marcos Outpost	3	3
	New Braunfels Outpost	1	1
	Victoria	8	5
	Wharton Outpost	1	1
	Angleton Outpost	2	2
	Richmond Outpost	3	3
	Sealy Outpost	1	1
Region 8 - Enforcement	San Antonio	20	20
	Floresville Outpost	1	1
	Uvalde Outpost	1	1
	Del Rio Outpost	1	1
	Devine Outpost	1	1
	Corpus Christi	8	7
	McAllen	11	11

	Harlingen Outpost	3	3
	Laredo Outpost	4	3
Region 1 - Compliance	Amarillo	1	1
	Lubbock	2	2
	El Paso	1	1
	Odessa	1	1
	Abilene	1	1
Region 2 - Compliance	Dallas	7	6
	Fort Worth	2	1
	Waco	1	1
	Longview	1	1
Region 3 - Compliance	Houston	7	6
	Galveston	1	1
	Beaumont	1	1
Region 4 - Compliance	San Antonio	4	4
	Austin	1	1
	Corpus Christi	1	1
	McAllen	1	1
Ports of Entry	Del Rio	4	4
	Eagle Pass	8	8
	Laredo	19	19
	Roma	2	2
	Hidalgo	11	10
	Progreso	9	9
	Brownsville	19	19
	El Paso	20	20
	Presidio	2	2
<b>TOTAL</b>		<b>538</b>	<b>504</b>

**B. What was the agency's FTE cap for fiscal years 2002-2005?**

FY 2002 - 540.5

FY 2003 - 540.5

FY 2004 - 579.5

FY 2005 - 587.5

**C. How many temporary or contract employees did the agency have as of August 31, 2002?**

The agency reported two contract individuals as of August 31, 2002.

**D. Please fill in the chart below. See Exhibit 13 Example or [click here to link directly to the example.](#)**

Texas Alcoholic Beverage Commission Exhibit 13: Equal Employment Opportunity Statistics							
FISCAL YEAR 2000							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration	12	17%	5%	0%	8%	25%	26%
Professional	86	8%	7%	18%	7%	31%	44%
Technical	7	14%	13%	14%	14%	0%	41%
Protective Services	208	9%	13%	21%	18%	13%	15%
Para-Professionals	161	6%	25%	60%	30%	59%	55%
Administrative Support	34	15%	16%	27%	17%	88%	84%
Skilled Craft	3	0%	11%	33%	20%	0%	8%
Service/Maintenance	N/A	N/A	19%	N/A	32%	N/A	27%
FISCAL YEAR 2001							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration	12	17%	5%	8%	8%	25%	26%

<b>Professional</b>	89	6%	7%	18%	7%	30%	44%
<b>Technical</b>	7	14%	13%	0%	14%	0%	41%
<b>Protective Services</b>	207	10%	13%	21%	18%	14%	15%
<b>Para-Professionals</b>	160	6%	25%	60%	30%	61%	55%
<b>Administrative Support</b>	31	16%	16%	36%	17%	90%	84%
<b>Skilled Craft</b>	2	0%	11%	0%	20%	0%	8%
<b>Service/Maintenance</b>	N/A	N/A	19%	N/A	32%	N/A	27%
<b>FISCAL YEAR 2002</b>							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
<b>Officials/Administration</b>	11	18%	5%	9%	8%	27%	26%
<b>Professional</b>	114	7%	7%	19%	7%	46%	44%
<b>Technical</b>	8	13%	13%	0%	14%	0%	41%
<b>Protective Services</b>	195	8%	13%	22%	18%	13%	15%
<b>Para-Professionals</b>	137	5%	25%	69%	30%	56%	55%
<b>Administrative Support</b>	37	11%	16%	35%	17%	92%	84%
<b>Skilled Craft</b>	2	0%	11%	0%	20%	0%	8%
<b>Service/Maintenance</b>	N/A	N/A	19%	N/A	32%	N/A	27%

**E. Does the agency have an equal employment opportunity policy? How does the agency address performance shortfalls related to the policy?**

Yes. The human resources staff compiles data on a monthly basis to determine representation by class and gender in each EEO job category; thereby, identifying areas of under-representation. The department ensures effective recruitment efforts within budgetary limitations, reviews position qualifications and selection criteria/procedures to ensure validity, job-relatedness, fairness, and eliminate undue restrictions that may be discriminatory.

## **VI. Guide to Agency Programs**

Please complete this section for each agency program (**or each agency function, activity, or service if more appropriate**). Copy and paste the question boxes as many times as needed to discuss each program, activity, or function. Please contact Sunset staff with any questions about applying this section to your agency.

### **A. Please complete the following chart.**

<b>Texas Alcoholic Beverage Commission Exhibit 14: Program or Function Information — Fiscal Year 2002</b>	
<b>Name of Program or Function</b>	Enforcement
<b>Location/Division</b>	Enforcement Division
<b>Contact Name</b>	Greg Hamilton
<b>Number of Budgeted FTEs, FY 2002</b>	278.5
<b>Number of Actual FTEs as of August 31, 2002</b>	263

### **B. What are the key services of this function or program? Describe the major activities involved in providing all services.**

The key services provided under this program are criminal and administrative enforcement of the state's Alcoholic Beverage Code and public education on matters related to the alcoholic beverage code and underage drinking. Specific activities undertaken to enforce the Alcoholic Beverage Code include open inspections of licensed premises; covert surveillance of both licensed premises and unlicensed locations when violations of the Alcoholic Beverage Code are suspected to have occurred; undercover operations targeting specific types of violations; and investigations of complaints received from the public, other police agencies, public officials and the industry. While purely regulatory in nature, the agency's Marketing Practices activities-- product label approval, limited product testing for fill and alcohol content, advertising approvals, and the regulation of relationships between various industry tiers—are also part of the enforcement function. Educational initiatives include "Project SAVE"- multi-lesson curriculums targeting various school-age groups that focus on under-age drinking issues; "Shattered Dreams"- a highly dramatic underage drinking/drunk driving prevention program for high school students; separate regulatory compliance programs for retailers and for the wholesale tier; and a speakers bureau for civic and parents' groups.

The ultimate goal of the enforcement program and all its various components is to promote the health, safety, and welfare of the public and to regulate the alcoholic beverage industry by taking positive steps to foster voluntary compliance with the law through a combination of enforcement and education.

**C. When and for what purpose was the program or function created? Describe any statutory or other requirements for this program or function.**

The enforcement program or function has been a vital part of the agency from the very beginning (1935). The very nature of regulation presupposes an enforcement function. The fact that the legislature contemplated a significant enforcement program is clear from the wording of the Alcoholic Beverage Code, the agency's enabling legislation.

The Alcoholic Beverage Code requires the agency to "inspect, supervise, and regulate every phase of the business of manufacturing, importing, exporting, transporting, storing, selling, advertising, labeling, and distributing alcoholic beverages, and the possession of alcoholic beverages for the purposes of sale or otherwise." (Alcoholic Beverage Code, Sec. 5.31). It also requires the commission to "supervise and regulate licensees and permittees and their places of business" (Alcoholic Beverage Code, Sec. 5.33)" and calls upon the commission to "investigate violations of this code and of other laws related to alcoholic beverages" and to "cooperate in the prosecution of offenders before any court of competent jurisdiction." (Alcoholic Beverage Code, Sec. 5.36).

The code also authorizes the agency to "commission as many inspectors and representatives as are necessary to enforce this code and other laws" and grants those commissioned inspectors and representatives "all the powers of a peace officer coextensive with the boundaries of the state." (Alcoholic Beverage Code, Sec. 5.14).

With few exceptions, the agency's commissioned peace officers are today assigned to its Enforcement Division and constitute the core (81 percent) of that division's staffing. The remainder of the division's staff are administrative support personnel.

**D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program or function will no longer be needed?**

The services provided under the agency's enforcement program have evolved somewhat overtime, but the purpose of those services, the intent behind them, has never changed. The agency has always used its enforcement program as a means of promoting voluntary compliance and deterring alcohol violations. In the past, detection and punishment were the principal means of deterrence. Today, a sizable education component has been added to the mix.

From the earliest days of the agency, TABC's Enforcement Division has provided speakers for school

assemblies and for industry or civic group meetings upon request. It has also routinely provided instructors for classes on alcohol-related topics for peace officers and public officials. Until the early 1990s, however, such efforts were more or less ad hoc in nature and required little in the way of program resources.

Starting in 1990, the Enforcement Division began to look at public education, especially programs targeting young people, as a means of preventing alcohol violations. With the assistance of outside consultants, enforcement personnel developed multi-lesson prevention programs for various school-age groups under the umbrella of “Project SAVE” (Stop Alcohol Violations Early). Later in the decade, they took a California based program (“Every 15 Minutes”), retitled it “Shattered Dreams,” and adapted it for use in Texas high schools. Retailer and Wholesaler compliance programs were also developed and work began on a program for college students.

As new educational programs were added, the resources required for the educational component of the agency’s enforcement program grew from minuscule to significant. The educational initiatives now claim from 10 to 15 percent of the total enforcement program budget.

At the same time that educational initiatives were becoming a larger part of the enforcement program mix, emphasis was also shifting within the law enforcement segment of the program. Open inspection, surveillance, and the occasional undercover operation were the primary enforcement methods employed by the agency from the time of its inception until the early 1990s. During ‘90s, additional tools were added to the law enforcement tool chest. Minor stings, undercover operations in young people are sent into licensed establishments to attempt alcoholic beverage buys while under the supervision of enforcement agents, became the primary means of testing and measuring retailer age-law compliance. Complaint investigations, especially those arising from incidents where the illegal sale or provision of alcoholic beverages contributed to a death or serious injury, became far more thorough, complex, and time consuming as agents began tracking the alcoholic beverages involved in such incidents back to their source. A program of periodic fake ID sweeps in entertainment districts that cater to young (high school and college age) adults was also initiated across the state, and agents began to devote more time to undercover operations, especially those targeting narcotics, lewd conduct, prostitution, and gambling. More recently, the agency has increased its efforts to reduce the number of intoxicated drivers leaving bars and restaurants by creating the SSIP (Stopping Sales to Intoxicated Persons) program, which uses undercover operations to target sales to intoxicated persons as well as on-premises promotions and other business practices that contribute to illegal sales and over-service. It has also become increasingly involved in Homeland Security efforts, serving as an information and intelligence resource and providing agents to assist in investigations.

As to whether or not the agency’s mission will ever be fully achieved and the need for the enforcement program disappear, the answer is “not likely” unless, of course, there is a change in human nature or in the product that the agency regulates. So long as people abuse alcohol and alcohol remains a source of

potential personal and social harm, tight regulation of the product will be required. Also, so long as the state has a financial interest in the sale of alcoholic beverage products (i.e., tax revenues and licensing fees it collects), the state will require regulation of alcoholic beverage sales and enforcement of those regulations in order to protect a vital revenue stream.

**E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.**

By promoting public health and safety and focusing on such issues as underage drinking and reducing the number of impaired drivers coming from licensed premises, the enforcement program indirectly serves all Texans. Among those directly touched by the TABC enforcement program in FY 2002 were the 460,624 persons, 377,451 of whom were under 21 years of age, who attended agency educational programs; all 38,373 of the state's alcoholic beverage retailers - 30,123 of whom were physically inspected by enforcement agents a total of 83,845 times during the course of the fiscal year. Also directly impacted were the unknown number of citizens who frequented the various unlicensed locations across the state that were inspected or placed under observation a total of 25,787 times during the course of the year, as well as the 5818 citizens who filed complaints with the agency concerning alcohol violations and the 22,223 persons who were issued warnings or citations by enforcement agents for criminal violations of the Alcoholic Beverage Code and other laws.

Other affected parties included local law enforcement officers, their agencies, and other local officials to whom the TABC enforcement agents and supervisors provided training, technical assistance, and operational support. 10,586 criminal justice professional attended TABC-taught alcohol enforcement classes in FY 2002. TABC enforcement agents also participated in and often organized and led countless joint alcoholic enforcement operations that involved one or more local police agencies and provided backup for local officers whenever the need arose

Local schools are also served by enforcement agents, largely through agency education and public information initiatives, such as "Shattered Dreams" and "Safe Prom/Safe Graduation. Agents also play a role in Homeland Security investigation led by DPS and federal law enforcement agencies.

**F. Describe how the program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.**

Almost all enforcement services are provided in the field. Only the product label approval and product testing functions of the Enforcement Division's Marketing Practices Unit are centralized at headquarters. Even that unit's advertising approval process is at least partially decentralized, in that field supervisors are empowered to deal with local advertising issues.

Enforcement agents operate from 17 district offices and 35 sub-offices (called "outposts") across the

state. All are strategically placed to minimize travel time for those customers who must come to a TABC office to transact business and to maximize the efficiency of service delivery.

The districts are, in turn, organized into eight enforcement regions, each supervised by a captain. Each captain oversees the activity of 1 to 3 districts and is responsible for ensuring that agency standard operating procedures are followed within the region and that performance targets are met. Each reports to the Chief and Assistant Chief of Enforcement

The division's headquarters staff consist of the Chief; an Assistant Chief; a program specialist who also serves as the division's budget and performance analyst; two agents and a captain who are responsible for quality control and special investigations and who also double as the agency's internal affairs unit (reporting in the latter capacity to the agency's Executive Director); a chemist and licensing technician who handle label approvals and product testing; and two administrative support personnel. The Chief is responsible for the overall success of division operations. The Assistant Chief assists him in managing field operations and the activities of the headquarters staff.

**G. If the program or function works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief general description of these entities and their relationship to the agency.**

Field enforcement agents and supervisors have daily contact with local law enforcement agencies (police departments, sheriffs' offices, constables' offices, juvenile probation departments, public school and college campus police departments, local prosecutors' offices, and the courts) in the communities they serve. Enforcement agents provide training in alcoholic beverage law and alcohol enforcement methods to local police officers, prosecutors, and judges. They coordinate their own street activity with the local police and provide assistance to local police officers as the need arises. They also help organize and often lead inter-agency working groups that target local alcohol related problems.

In the course of dealing with alcohol related issues within communities, enforcement agents and supervisors also work closely with municipal and county executive staffs, elected officials, and the appointed members of certain local boards and commissions.

Providing educational programs for young people also requires enforcement agents and supervisors to maintain close contact and close working relationships with school administrators, school counselors, and local "drug free schools" coordinators, as well as with individual classroom teachers. The vast majority of those attending agency educational programs are public school students and much of their instruction takes place in school classrooms and auditoriums. The success of those programs depends upon the cooperation and participation of local school officials.

Now that the Office of the Governor has passed responsibility for the administration of the Enforcement of Underage Drinking Laws (EUDL) block grant to the TABC, the agency has also become a pass-through funding source for local and university programs targeting underage drinking. While this program is managed by personnel from the agency's Resource Management Division, enforcement agents and supervisors have played a major role in agency efforts to identify, encourage, and assist potential grantees.

**H. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

The sources of funding for TABC's enforcement program in FY 2002 were:

General Revenue \$14,808,902

Interagency Contracts \$234,294

Federal Revenue \$1,691

Appropriated Receipts \$89,161

**I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.**

Funding needs in the near future will be constantly changing and increasing based on a number of factors, most of which the agency has no control. Though the agency has embarked in recent years to make inroads in areas by partnering with various groups in order to maximize benefits and decrease its costs and has or is attempting to streamline operations through technology, it cannot maintain the level of service without increases in manpower and funding.

The economy, population growth, heated industry competition and advertising, greater public awareness of alcohol consumption and anticipated surge in underage population are but a few of the factors that affect the number of opportunities for enforcement.

During the early 1990's, the agency realized a decrease in law enforcement personnel up to 19% when the state faced a financial crisis. It was never returned to its historical level of 250 FTEs. Though some FTEs have been restored with new statutory programs or initiatives, the yearly average of 214 agents cannot begin to address all the issues that arise out of a population greater than 25 million people.

**J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.**

To the extent that they engage in alcohol enforcement and actively police licensed establishments, local police agencies provide criminal law services similar to the TABC's Enforcement Division. Unfortunately, most local agencies tend to shy away from enforcement activities on licensed premises, and their officers, being generalists, lack the level of expertise normally associated with TABC enforcement agents. In addition, because local police agencies are focused on public safety concerns, their officers have little or no interest in regulatory matters.

On the education front, similar services are offered by a host of public, not-for-profit, and for-profit organizations. While the TABC's programs are very good, some of the alternative programs are even better. This is especially true for several of the newer multi-lesson curriculums that compete with the TABC's Project SAVE. The TABC retains a competitive edge in educational programs for licensees and criminal justice professionals, largely because of the expertise of its agents.

**K. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

Enforcement agents and supervisors work closely with local police officers and their agencies to avoid duplication of effort. They encourage, organize, and participate in joint operations. They stay informed concerning local efforts and coordinate their own activity with those efforts. They also work to increase the expertise of local officers by regularly providing educational opportunities for local officers on various legal topics and alcohol enforcement tactics.

The TABC sees local involvement in alcoholic enforcement as something positive - a force multiplier that helps the agency more fully achieve its mission. Encouraging and enabling local involvement is a key element of its law enforcement strategy. Given the scope of the mission and the size of both the territory and the population over which that mission must be achieved, duplication of effort among law enforcement agencies is not likely. To avoid possible conflicts, however, the TABC does maintain close contact with local police agencies and, as previously mentioned, does coordinate its activities with that of local law enforcement.

The potential for duplication is much greater in the area of public information and public education. As indicated earlier, many organizations have developed prevention programs that target underage drinking. Some, particularly the newer programs with multi-lesson curriculums, are more up-to-date and qualitatively better than the TABC's Project SAVE curriculums.

In response to this "competition," the TABC has elected to redirect its educational efforts to those things that it does best-- training police officers and other criminal justice professionals on alcoholic beverage law or alcohol enforcement topics; providing instruction on regulatory issues for retailers, wholesalers,

and their employees; and helping to coordinate elaborate, high impact educational events such as “Shattered Dreams” that require a good deal of preparation and inter-agency cooperation to stage successfully. Speakers will still be provided for school assemblies, parents group meetings, and civic club functions, and Project SAVE, though greatly de-emphasized statewide, will still be offered in areas where better programs are not available due to logistics or cost. The difference, however, is that enforcement agents will not try to duplicate the efforts of other providers when those providers can deliver a better educational product or deliver an equal product more efficiently.

To help the agency stay abreast of the activities, plans, and services of other organizations and to permit coordination of public information and education efforts, enforcement agents and supervisors maintain active membership and, in some cases, hold leadership positions in many of the local and statewide non-profits that are actively involved in underage drinking and DWI prevention efforts.

TABC Enforcement is, for example, one of the primary sponsors of the Texas Alliance Against Underage Drinking and its 2young2drink website. The Alliance is a broad-based coalition of state agencies, non-profits, and industry groups that pool resources to sponsor joint public information campaigns and to provide information and other material assistance to parents, young people, and local coalitions trying to combat underage drinking in their communities. The alliance also serves as a sounding board for new programs and other ideas and provides a means of coordinating member activities.

**L. Please provide any additional information needed to gain a preliminary understanding of the program or function.**

None known

**M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:**

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

**Why the regulation is still needed?**

Alcohol remains one of few legal recreational drugs and as such is extremely popular. Excessive use and abuse of alcoholic beverage products can still cause great social harm. Regulation minimizes the potential for harm and at the same time, because of the public’s demand for alcoholic beverage products, provides an important, reliable tax revenue source for state government.

The scope of and procedures for inspections of regulated entities.

The agency's goal in FY 2002 was for enforcement agents to conduct 79,500 inspections of licensed premises and to visit at least 70 percent of all licensed establishments at least once. Agents actually visited 79 percent of all licensed establishments and inspected those 30,315 establishments a total 83,845 times.

Inspections can take the form of open walk-throughs or covert surveillance. The form chosen will depend upon the circumstances.

Open walk-throughs are the norm. During the course of open walk-throughs, agents will identify themselves to the staff and management and will openly check for possible violations as well as being a resource for the staffs' or management's questions, concerns and providing helpful recommendations.

When, however, violations are expected, as in case of a complaint, or when an establishment has a history of past offenses, the "inspection" is more likely to consist of a covert surveillance. During the course of such inspections, the agents will either station themselves within the premises and pose as customers or remain at a distance outside observing activity through a pair binoculars or some other optical aid.

If violations are observed during the course of an inspection, agents may, at their discretion, depending upon the nature of the offense, issue a verbal or written warning, issue a citation to the offender indicating an intent to file criminal charges, and/or issue an administrative notice to the license or permit holder or a representative of license or permit holder indicating an intent to file administrative charges.

Information concerning each inspection conducted is entered onto the agent's daily activity report and then data-entered to create an automated record of the inspection. For inspections of licensed premises, the information captured for each inspection includes the date of the inspection, the establishment's primary license or permit number, a code indicating the purpose of inspection (routine, complaint investigation, special operation, etc.), one or more codes indicating outcome (no violations found, criminal charges to be filed, administrative charges to be filed, verbal or written warning issued, etc.), and an identifier for the agent claiming the inspection.

Follow-up activities conducted when non-compliance is identified.

Much depends upon the nature of the violation and the type of sanction applied. Generally, agents are expected to re-inspect an establishment within 30 - 60 days if a violation is found, except when the violation is handled informally with a verbal warning. Re-inspections of establishments where the prior inspection indicated public safety concerns would have first priority. Establishments where violations of a purely regulatory nature occurred would also be re-inspected but their re-inspection would be assigned

a lower priority. Minor regulatory violations are most likely to have been handled by verbal warning and would seldom result in re-inspection.

Establishments are also re-inspected when under suspension or after cancellation to ensure that alcohol sales have ceased as directed by the suspension or cancellation order.

**Sanctions available to agency to ensure compliance**

Violations are found in approximately 15 percent of the inspections conducted. Consequently, it is only fair to note that most regulated entities voluntarily comply with law and exercise adequate control of their premises. For those that don't, however, the agency has a host of administrative sanctions ranging from verbal warnings for the most minor regulatory violations to cancellation for the most grievous or repeated offenses. Specific sanctions include verbal warning, written warning, suspensions of various length, civil penalties in lieu of closing, and outright cancellation. The application of these administrative sanctions is governed by Chapter 37 of the commission's Rules.

Being commissioned peace officers, enforcement agents also have the ability to initiate sanctions (formal warnings, criminal charges) for any criminal violations they might observe or detect during the course of their work. Unlike administrative charges which are filed only against the license holder, who is administratively responsible not only for his or her actions or omissions but also for those of his or her employees, servants, or agents, criminal charges are filed against the person or persons who actually commit the criminal offense. All violations of the Alcoholic Beverage Code can have both criminal and administrative consequences, though agents seldom file criminal charges when the violations are of a technical and purely regulatory nature.

**Procedures for handling consumer/public complaints against regulated entities**

The commission maintains a toll-free complaint hotline (1-888-THE-TABC) and requires its licensees and permittees to prominently display signs that both provide the toll free number and urge to public to call it if they have complaint concerning the business. In the course of any given year, enforcement agents also distribute thousands of push cards and hundreds of posters that provide the toll-free number and also urge the public to report underage drinking.

The toll-free number rings to the agency's Austin Headquarters where it is answer by Enforcement personnel, usually by one of the commissioned peace officers. The information provided by the caller is recorded on a complaint record form, which after data-entry into the agency's Complaint Tracking System, is later faxed to field office that serves the area in which entity or person that was the subject of the complaint is located.

Upon reaching the field office, the complaint is assigned to a specific agent or agent team for investigation. While the tactics actually employed will vary with the nature of the alleged violation, the assigned agents will make a good faith effort to ascertain the validity of the allegations and will

physically inspect the licensed establishment at least once and by preference twice. If evidence of any criminal or administrative violations is found, appropriate enforcement action is taken.

At the end of each investigation, a supervisor will update the automated complaint record created at the start of the investigation and add details to that record concerning the activities undertaken and the disposition of the complaint. At this time, the supervisor will also contact the complainant, if the complainant had indicated the desire for a follow up contact, and share this information with the complainant.

While a significant number of complaints reach the agency through the toll-free hotline, most complaints are actually received by phone calls made to agency field offices or through "in person" contacts with field personnel. Regardless of the method or location in which a complaint was received, the process for handling a complaint is essentially the same-- only the roles of certain players change.

**N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.**

<b>Texas Alcoholic Beverage Commission Enforcement Program</b>		
<b>Exhibit 15: Complaints Against Regulated Entities or Persons – Fiscal Years 2001 and 2002</b>		
	<b>FY 2001</b>	<b>FY 2002</b>
Number of complaints received	5,771	5,818
Number of complaints resolved	5,874	5,757
Number of complaints dropped/found to be without merit (All investigated. Number shown represents the number of investigations in which no violations were found)	3,465	3,332
Number of sanctions (Numbers shown represent the number of investigations that resulted in each type of sanction. An investigation can result in the application of different types of sanctions.)  Administrative Warnings Administrative Charges Filed Criminal Warnings Criminal Charges Filed	470 1,042 62 628	491 976 54 729
Number of complaints pending from prior years	689	544
Average time period for resolution of a complaint	35.4 days	30.5 days
Number of entities inspected or audited by the agency	25,925	30,315

Total number of entities or persons regulated by the agency	38,217	38,373
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**A. Please complete the following chart.**

**Texas Alcoholic Beverage Commission  
Exhibit 14: Program or Function Information — Fiscal Year 2002**

<b>Name of Program or Function</b>	Licensing
<b>Location/Division</b>	Licensing/Regulatory Division
<b>Contact Name</b>	Amy Harrison
<b>Number of Budgeted FTEs, FY 2002</b>	39.5
<b>Number of Actual FTEs as of August 31, 2002</b>	39.5

**B. What are the key services of this function or program? Describe the major activities involved in providing all services.**

The Licensing Department, which is located at the Austin Headquarters, primarily is responsible for the issuances of licenses and permits, both originals and renewals. It is through the issuances of licenses and permits that regulatory control of the alcoholic beverage industry within this state is established.

The Licensing Department processes 64 different licenses, permits, and certificates. Each allows its holder the authority to perform specific functions in the manufacturing, importing, exporting, transporting, storing, selling, advertising, labeling, distributing and possession for sale of alcoholic beverages. In FY 2002, the Licensing Department issued over 100,000 licenses and permits to entities authorizing them to do business in this state.

To accomplish its goals, the Licensing Department timely and efficiently processes applications for originals, renewals, reinstatements, changes of address and ownership, insuring that the applicants are qualified to hold such licenses and permits under the Texas Alcoholic Beverage Code.

The Licensing Department is currently divided into 5 sections, each with its own unique area of responsibilities in processing applications:

Data Entry - All licensing data is entered, maintained and changed by this section within the Licensing Department. The Licensing computer files are the basis for all other agency divisions and departments.

Customer Service & Bonding- Handles incoming and outgoing written correspondence involving licenses and permits and handles telephone communications with licensees/permittees, agency employees, and other interested persons. This section also reviews all aspects of bonds, certificate of deposits, and letter of credits submitted as collateral for anticipated tax liability and other performance requirements.

Application Processing - Processes all the applications for originals, renewals, changes, reinstatements as well as maintains the over 100,000 files located within the Licensing Department. The section is responsible for keeping the files up to date, expiring files, updating the current status (suspense, voluntarily cancelled, cancelled for cause, etc.) of both the actual files and computer records.

Investigations - Reviews applications and investigates applications which are questionable in nature making determination whether to question the application or protest it.

Administrative - Performs all the budget and administrative duties required of the department, such as preparing certified records for administrative and court hearings, maintaining up to date manuals, statistics, quality assurance of department records, training, etc.

The Licensing Department and other departments within the agency depend on the information obtained through the licensing process to insure that all persons involved in the alcoholic beverage industry are qualified to hold the necessary license or permit.

**C. When and for what purpose was the program or function created? Describe any statutory or other requirements for this program or function.**

In 1933, the 21<sup>st</sup> Amendment to the U.S. Constitution repealed prohibition and states were required to regulate the alcoholic beverage industry. To meet those requirements, the Texas 44<sup>th</sup> Legislature created the Texas Liquor Control Board in 1935 to administer the Texas Liquor Control Act.

The newly formed board began issuing temporary permits to regulate the sale of alcoholic beverages. Soon, the State had built an entire framework for the distribution of alcoholic beverages in accordance with the new law. The Texas Liquor Control Act was designed to prevent criminals from owning and controlling the alcoholic beverage distribution system (as they had done during prohibition) and to prevent national wholesale distribution networks from controlling retailers and customers through debts and other credit control.

The Texas Liquor Control Act also was designed to allow grassroots involvement and control of alcoholic beverage sales. The Act allowed for local option elections by cities, towns, justice of peace precincts, and counties to determine the types of alcoholic beverages to be sold. The Act also allowed for cities, towns and counties to enact ordinances and county commissioner's court orders to regulate the sale and service of alcoholic beverages. This allowed local officials input into the application process.

Under the current process, applicants are required to obtain city certifications to insure compliance with local option elections and with city and local ordinances involving health, fire and other safety issues as well as similar approval by the county.

#### **STATUTORY AUTHORIZATION**

#### **SEC. 5.33 REGULATE LICENSEES AND PERMITTEES**

#### **TITLE 2. ADMINISTRATION OF CODE**

Chapter 6. Activities Subject to Regulation

#### **TITLE 3. LICENSES AND PERMITS**

Subtitle A. Permits

Chapter 11. Provisions Generally Applicable to Permits

Subchapter A. General Provisions

Subchapter B. Application for and Issuance of Permits

Chapter 12. Brewer's Permit

Chapter 13. Nonresident Brewer's Permit

Chapter 14. Distiller's and Rectifier's Permit

Chapter 16. Winery Permit

Chapter 18. Wine Bottler's Permit

Chapter 19. Wholesaler's Permit

Chapter 20. General Class B Wholesaler's Permit

Chapter 21. Local Class B Wholesaler's Permit

Chapter 22. Package Store Permit

Chapter 23. Local Distributor's Permit

Chapter 24. Wine Only Package Store Permit

Chapter 25. Wine and Beer Retailer's Permit

Chapter 26. Wine and Beer Retailer's Off-Premise Permit

Chapter 27. Temporary and Special Wine and Beer Retailer's Permits

Chapter 28. Mixed Beverage Permit

Chapter 29. Mixed Beverage Late Hours Permit

Chapter 30. Daily Temporary Mixed Beverage Permit

Chapter 31. Caterer's Permit

Chapter 32. Private Club Registration Permit

Chapter 33. Other Private Club Permits

Chapter 34. Airline Beverage Permit  
Chapter 35. Agent's Permit  
Chapter 36. Manufacturer's Agent's Permit  
Chapter 37. Nonresident Seller's Permit  
Chapter 38. Industrial Permit  
Chapter 41. Carrier Permit  
Chapter 42. Private Carrier Permit  
Chapter 43. Local Cartage Permit  
Chapter 44. Beverage Cartage Permit  
Chapter 45. Storage Permit  
Chapter 46. Bonded Warehouse Permit  
Chapter 47. Local Industrial Alcohol Manufacturer's Permit  
Chapter 48. Passenger Train Beverage Permit  
Chapter 49. Market Research Packager's Permit  
Chapter 51. Minibar Permit  
Chapter 52. Package Store Tasting Permit  
Chapter 53. Temporary Charitable Auction Permit

### **TITLE 3. LICENSES AND PERMITS**

#### Subtitle B. Licenses

Chapter 61. Provisions Generally Applicable to Licenses  
Subchapter A. General Provisions  
Subchapter B. Application and Issuance of Licenses  
Chapter 62. Manufacturer's License  
Chapter 63. Nonresident Manufacturer's License  
Chapter 64. General Distributor's License  
Chapter 65. Local Distributor's License  
Chapter 66. Branch Distributor's License  
Chapter 67. Importer's License  
Chapter 68. Importer's Carrier's License  
Chapter 69. Retail Dealer's On-Premise License  
Chapter 70. Retail Dealer's On-Premise Late Hours License  
Chapter 71. Retail Dealer's Off-Premise License  
Chapter 72. Temporary Licenses  
Chapter 73. Agent's Beer License  
Chapter 74. Brewpub License  
Chapter 75. Storage License

### **TITLE 4. REGULATORY AND PENAL PROVISIONS**

Chapter 102. Intra-Industry Relationships

Subchapter A. General Provisions

- D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program or function will no longer be needed?**

In 1933, the 21<sup>st</sup> Amendment to the U.S. Constitution repealed prohibition and required states to regulate the alcoholic beverage industry within their own boundaries. To meet those requirements, the Texas 44<sup>th</sup> Legislature created the Texas Liquor Control Board in 1935 to regulate the manufacture, distribution, storage, and sale of alcoholic beverages through the administration of the Texas Liquor Control Act.

Between 1920 and 1933, the United States government prohibited the distribution and consumption of alcoholic beverages. Although the motives behind Prohibition were idealistic and noble, a law enforcement nightmare ensued. Otherwise law-abiding citizens routinely violated the law by buying and consuming alcoholic beverages. The demand for the illegal product created an opportunity for the criminal element to develop a national network for supply and demand and massive criminal empires were made.

Texas and 31 other states decided that they would regulate the now lawful alcoholic beverage industry by licensing each facet of the industry. The remaining 18 states chose to control the alcoholic industry through the state ownership of stores which sold distilled spirits.

The Texas alcoholic beverage regulatory system ensures:

The Texas Alcoholic Beverage Commission serves as the general administrative agency in charge of all phases of enforcement.

Local-option elections are preserved and communities are authorized to vote to determine whether alcoholic beverages of varying contents may be sold. Under these elections, voters of cities, towns, precincts and counties are given the right to determine if, how and when alcoholic beverages will be sold.

Licenses and permits issued by the state do not grant the holder a right, but a privilege that can be challenged at both the county and state level.

The basic purpose and intent of the Licensing Department has not changed since it was created; however, it has been given additional duties and responsibilities. The department issues licenses and permits in accordance with the Texas Alcoholic Beverage Code and other state statutes. Only a repeal of current laws and amendments to both the U.S. and Texas Constitutions could abolish the need for the licensing function.

Prior to 1978, the licensing function was a part if the Accounting Division. In 1978, the licensing function became a division in its own right. Currently the Licensing Department is authorized 41 full time employees located at the TABC Headquarters in Austin but is budgeted and staffed with 39.5 due to monetary constraints.

In 1985 the licensing process went through an automation system conversion with the creation of the licensing information processing system. Prior to that conversion the entire licensing process at headquarters was a manual process. The conversion to a mainframe system allowed many of the application processes to be more efficient. The agency is currently undergoing the creation of a web-based system that includes many technological advances.

The applicants' need for capital, protection of liability, franchise tax considerations and other business decisions has resulted in an increase in the number of complex and multi level business structures (Limited Liability Companies, Limited Partnerships, Limited Liability Partnerships and Corporations). Since the enactment of Sec. 6.03 on September 1, 1999 removing the restriction for corporations to be owned 51% or more by Texas residents, there has been an increase in the number of complex entity types as well as the complexity of applications.

In the first year of operation, The Liquor Control Board issued 4,404 licenses and permits. In 1935, there were 27 different licenses and permits. By fiscal year 2002, there were 64 different types of licenses, permits, and certificates and the agency issued 100,748 licenses and permits.

**E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.**

Through the issuance of licenses and permits the Licensing Department helps to meet the agency's mission to regulate all phases of the alcoholic beverage industry to insure the protection of the welfare, peace, temperance and safety of the people of Texas, while facilitating fairness and balanced competition of licensees and permittees.

Also through the licensing process local officials of cities, towns and counties are actively involved in the application process from the very inception of an application. Under the current regulatory scheme the citizens of each city, town, justice precinct and county have a voice in the type of alcoholic beverages sold and how they are sold.

A person may manufacture, distill, brew, sell, import, export, transport, distribute, warehouse, store, possess for the purpose of sale, bottle, rectify, blend, treat, fortify, mix or process alcoholic beverages, if

the right or privilege of doing so is granted by this code and the person has first obtained a license or permit of the proper type as required by this code. (Sec. 6.01)

No person may manufacture or brew beer for the purpose of sale, import it into this state, distribute or sell it, or possess it for the purpose of sale without having first obtained an appropriate license or permit as provided in this code. (Sec. 61.01)

### Qualifications

Sec. 6.03 K (1)(2)(3)(4)	Citizenship Requirements
Sec. 11.45	“Applicant” Defined
Sec. 11.46	General Grounds for Refusal
Sec. 11.47	Refusal of Permit: Interest in Beer Establishment
Sec. 11.48	Refusal of Package Store or Mixed Beverage Permit
Sec. 11.61	Cancellation or Suspension of Permits
Sec. 11.611	Conviction of Offense Relating to Discrimination
Sec. 61.42	Mandatory Grounds for Refusal: Distributor or Retailer
Sec. 61.43	Discretionary Grounds for Refusal: Distributor or Retailer
Sec. 61.44	Refusal of Distributor’s or Retailer’s License: Prohibited Interests
Sec. 61.45	Refusal of Retailer’s or Distributor’s License: Prohibited Interest in Premises
Sec. 61.46	Manufacturer’s License Grounds for Refusal
Sec. 61.71	Grounds for Cancellation or Suspension: Retail Dealer
Sec. 61.711	Retail Dealer: Conviction of Offense Relating to Discrimination
Sec. 61.712	Grounds for Cancellation or Suspension: Sales Tax
Sec. 61.74	Grounds for Cancellation or Suspension: Distributor
Chapter 102, Subchapter A	Intra-Industry Relationships
Sec. 109.31	Municipal Regulation of Liquor
Sec. 109.32	Municipal and County Regulation of Beer
Sec. 109.33	Sales Near School, Church or Hospital
Sec. 109.331	Sales Near Day-Care Center or Child-Care Facility
Sec. 109.53	Citizenship of Permittee: Control of Premises; Subterfuge Ownership, Etc.

During FY 2002, the following alcoholic beverage permits and licenses were issued:

<b>LIQUOR PERMITS:</b>	
Agent’s Permit	10,753
Airline Beverage Permit	19
Beverage Cartage Permit	5,756
Bonded Warehouse Permit	7
Bonded Warehouse Permit (Dry Area)	0
Brewer’s Permit	10

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Carrier's Permit	518
Caterer's Permit	1,029
Daily Temporary Mixed Beverage Permit	494
Daily Temporary Private Club Permit	125
Distiller's and Rectifier's Permit	1
Food and Beverage Certificate	3,948
Forwarding Center Certificate	26
General Class B Wholesaler's Permit	191
Industrial Permit	59
Local Cartage Permit	822
Local Class B Wholesaler's Permit	13
Local Distributor's Permit	553
Local Industrial Alcohol Manufacturer's Permit	3
Manufacturer's Agent	600
Market Research Packager's Permit	0
Minibar Permit	54
Mixed Beverage Late Hours Permit	5,647
Mixed Beverage Permit	8,287
Mixed Beverage Restaurant with FB	40
Non Resident Brewer's Permit	151
Non Resident Seller's Permit	1,210
Package Store Permit	2,306
Package Store Tasting Permit	680
Passenger Train Beverage Permit	3
Private Carrier's Permit	323
Private Club Exemption Certificate Permit	479
Private Club Late Hours Permit	476
Private Club Registration Permit	2,371
Private Club Beer and Wine Permit	109
Private Storage Permit	6
Public Storage Permit	7
Wholesaler's Permit	85
Wine and Beer Retailer's Permit (Excursion Boat)	15
Wine and Beer Retailer's Permit (Railway Car)	0
Wine Bottler's Permit	46
Wine Only Package Store Permit	3,839
Winery Permit	66
Winery Storage Permit	0
<b>TOTAL LIQUOR PERMITS</b>	<b>51,127</b>

<u>BEER LICENSES AND WINE AND BEER RETAILER'S PERMITS</u>	
Agent's Beer License	11,320
Beer Retail Dealer's Off-Premise License	7,889
Beer Retail Dealer's On-Premise License	2,033
Branch Distributor's License	84
Brewpub License	26
General Distributor's License	126
Importer's Carrier's License	26
Importer's License	194
Local Distributor's License	1
Manufacturer's License	11
Manufacturer's Warehouse License	6
Non Resident Manufacturer's License	149
Retail Dealers On-Premise Late Hours License	2,729
Storage License	1
Temporary License	4,773
Wine and Beer Retailer's Off-Premise Permit	11,024
Wine and Beer Retailer's Permit	9,229
<b>TOTAL BEER LICENSES AND WINE AND BEER RETAILER'S PERMIT</b>	<b>49,621</b>
<b>TOTAL LICENSES AND PERMITS</b>	<b>100,748</b>

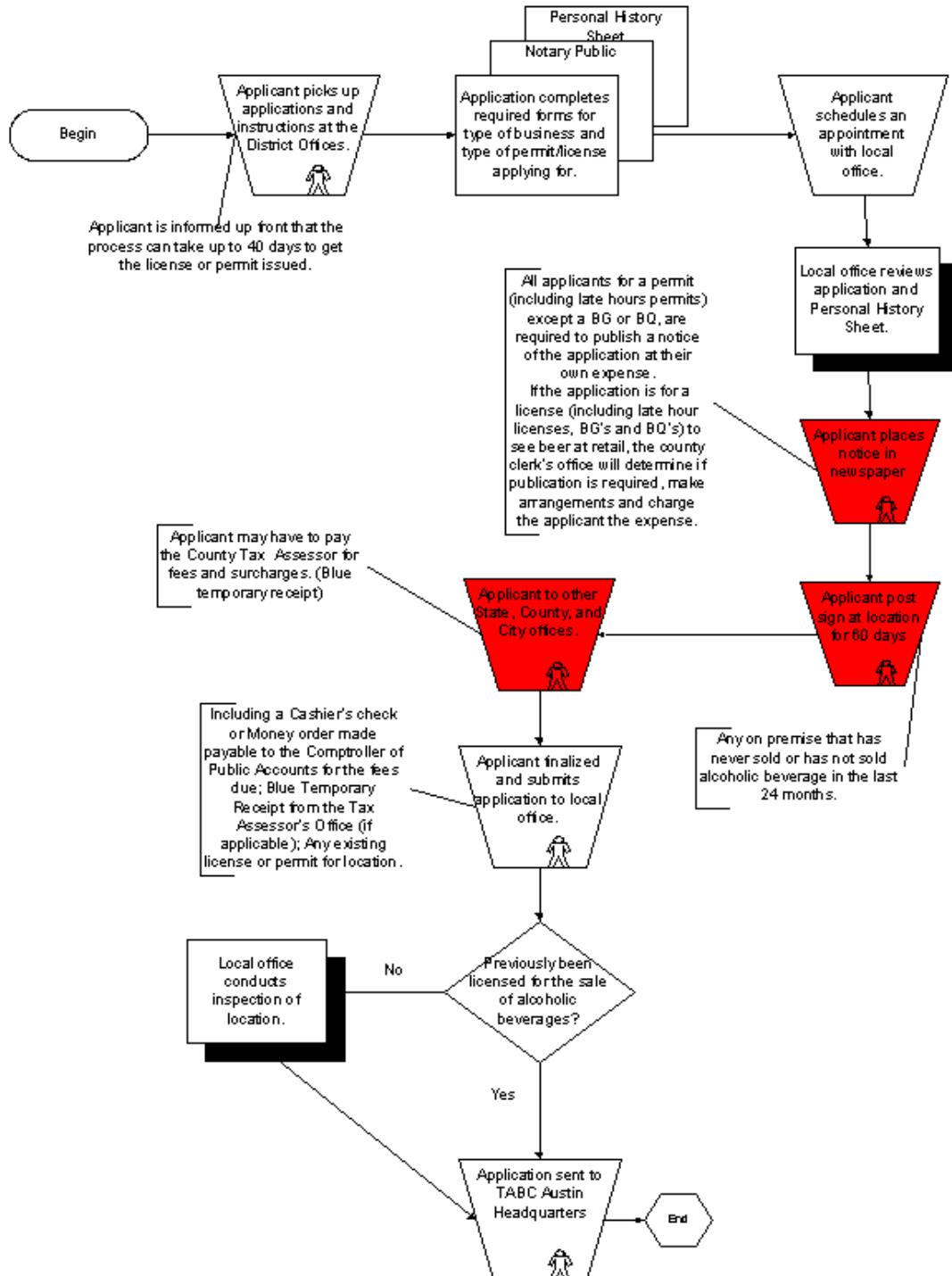
F. **Describe how the program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe the agency policies and procedures. List any field or regional services.**

The licensing process begins at the district level with the Enforcement field offices. Enforcement personnel provides appropriate application and instructions for applicants in their area, conducts interviews, background checks, investigations, location inspections in areas where compliance officers are not located, and ensures all required notifications and local requirements are met.

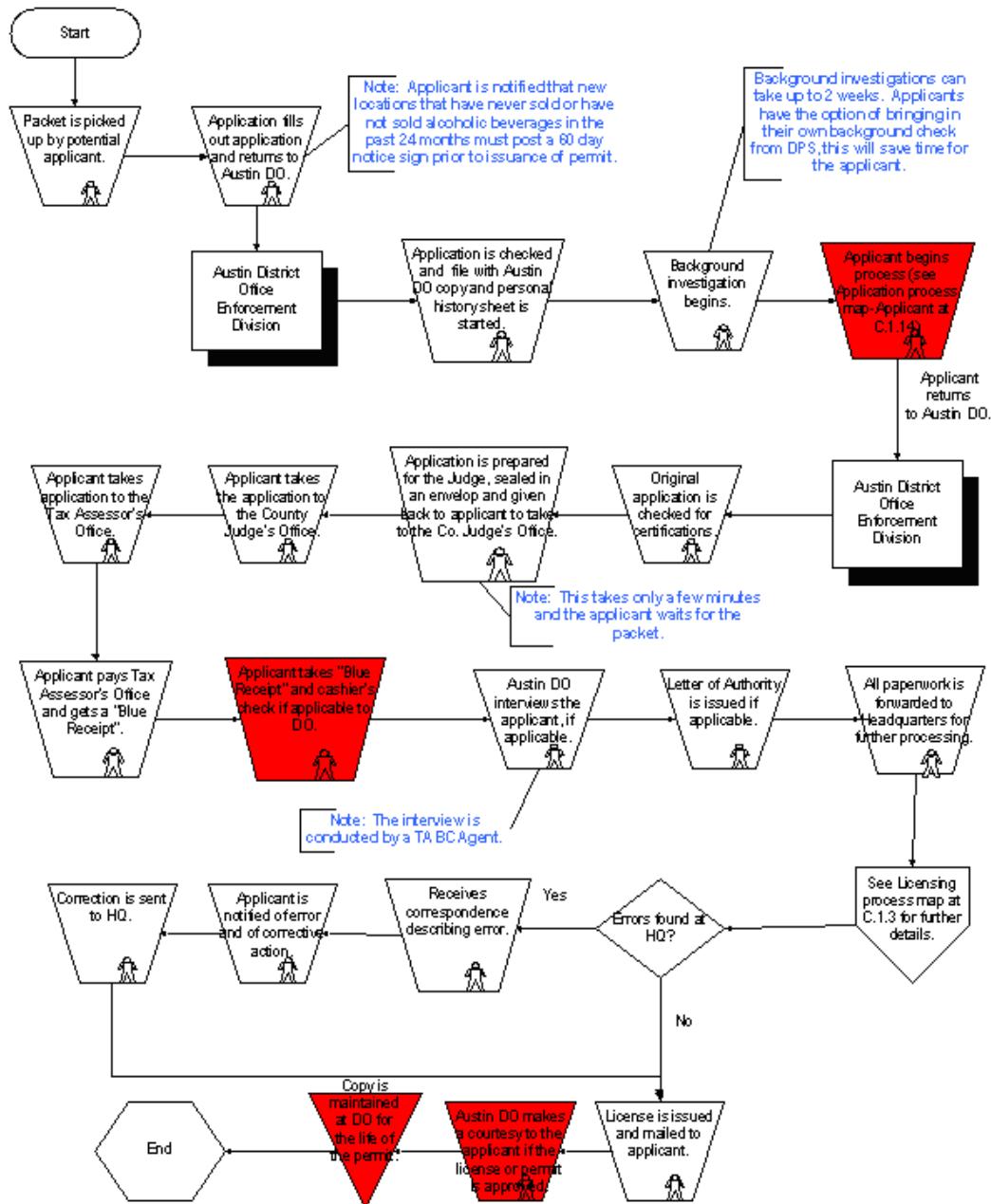
The Compliance Department plays a role in the initial licensing process through inspections and fee analysis.

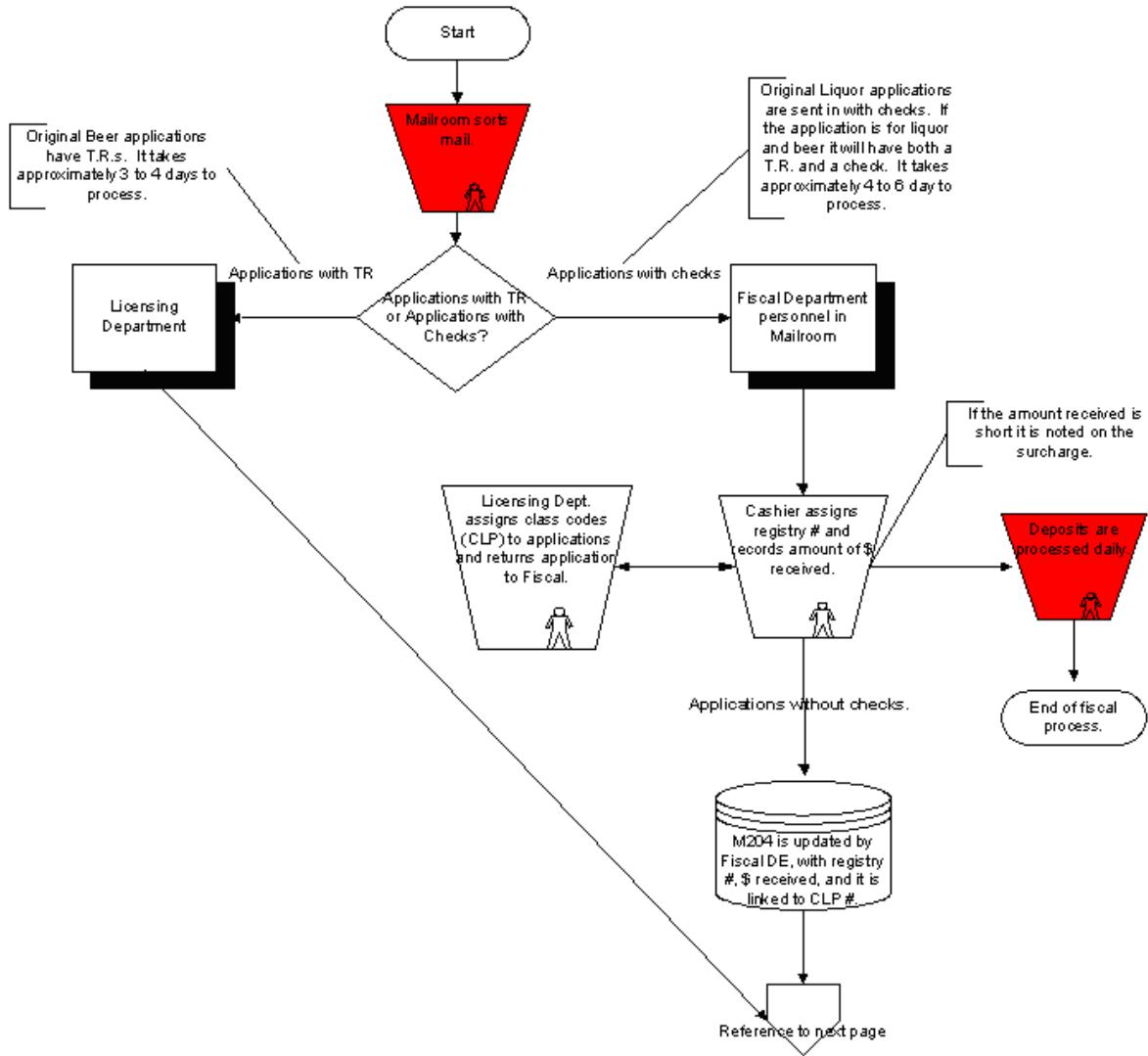
The Licensing Department located in headquarters, completes the application process with further checks, verifications and investigations using information and resources not available at the local level. Licensing corresponds with the applicant or local office regarding any problems with the application to obtain the necessary corrections needed to issue the permit/license. Licensing handles the denial process when the applicant fails to meet the statutory requirements. Licensing processes 99% of all originals within 14 days of being received in the department.

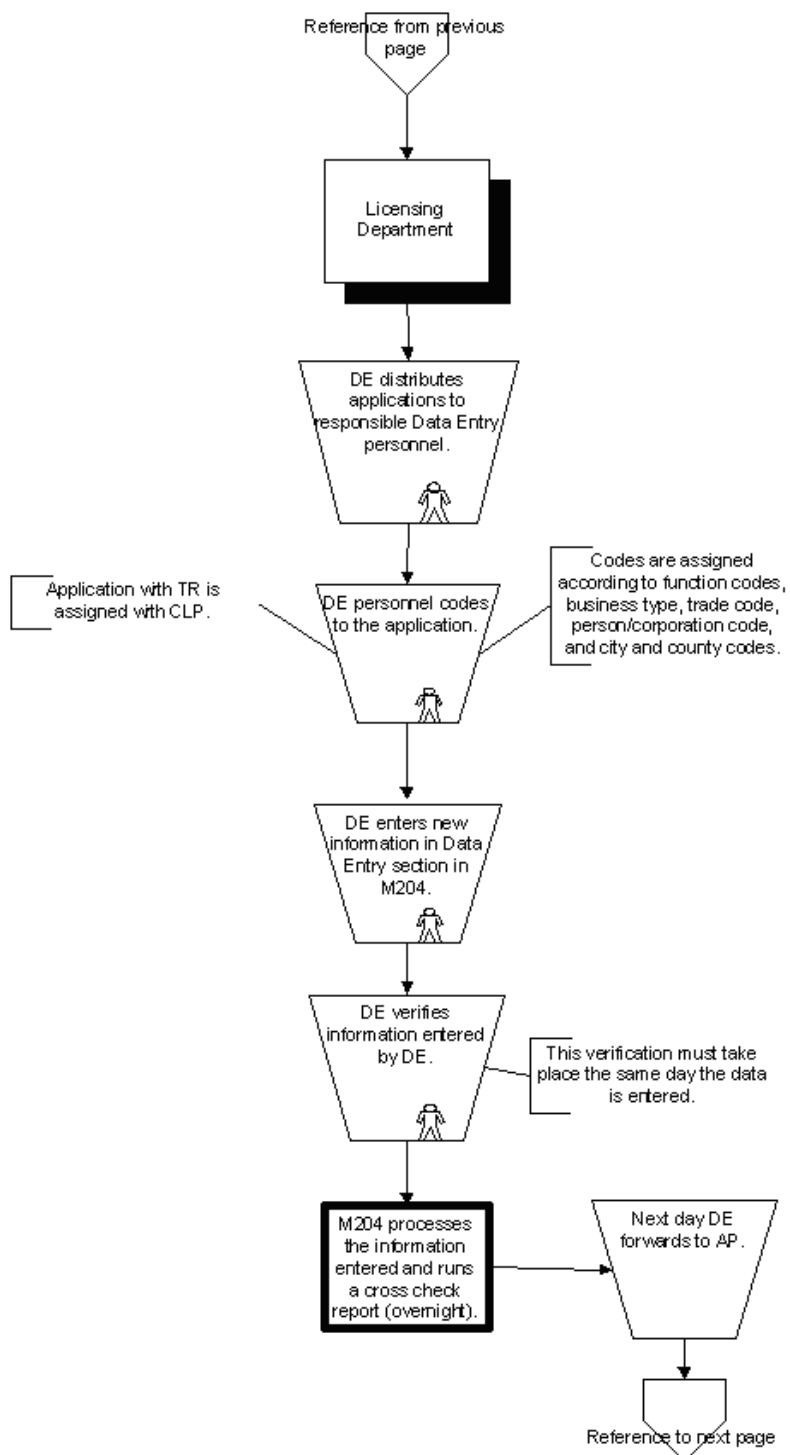
*Self-Evaluation Report*

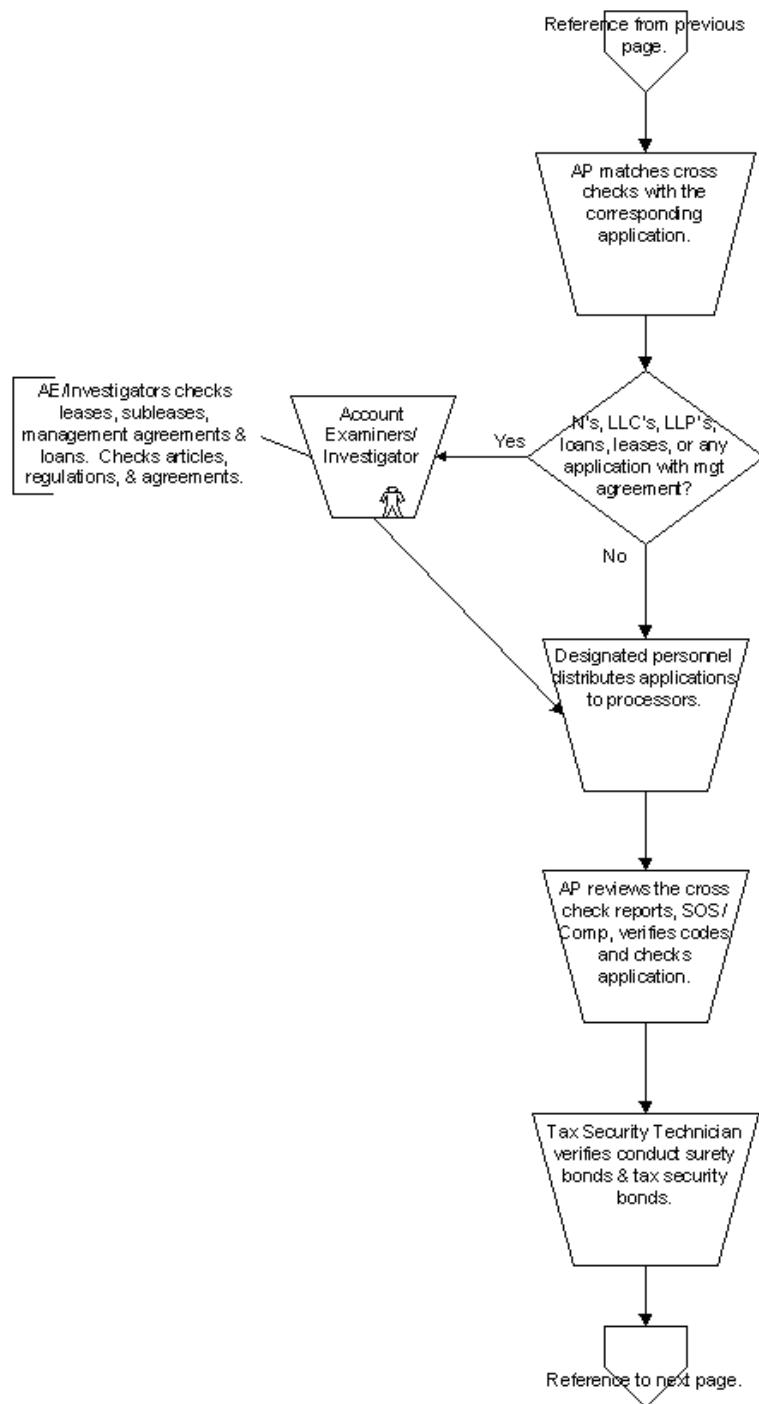


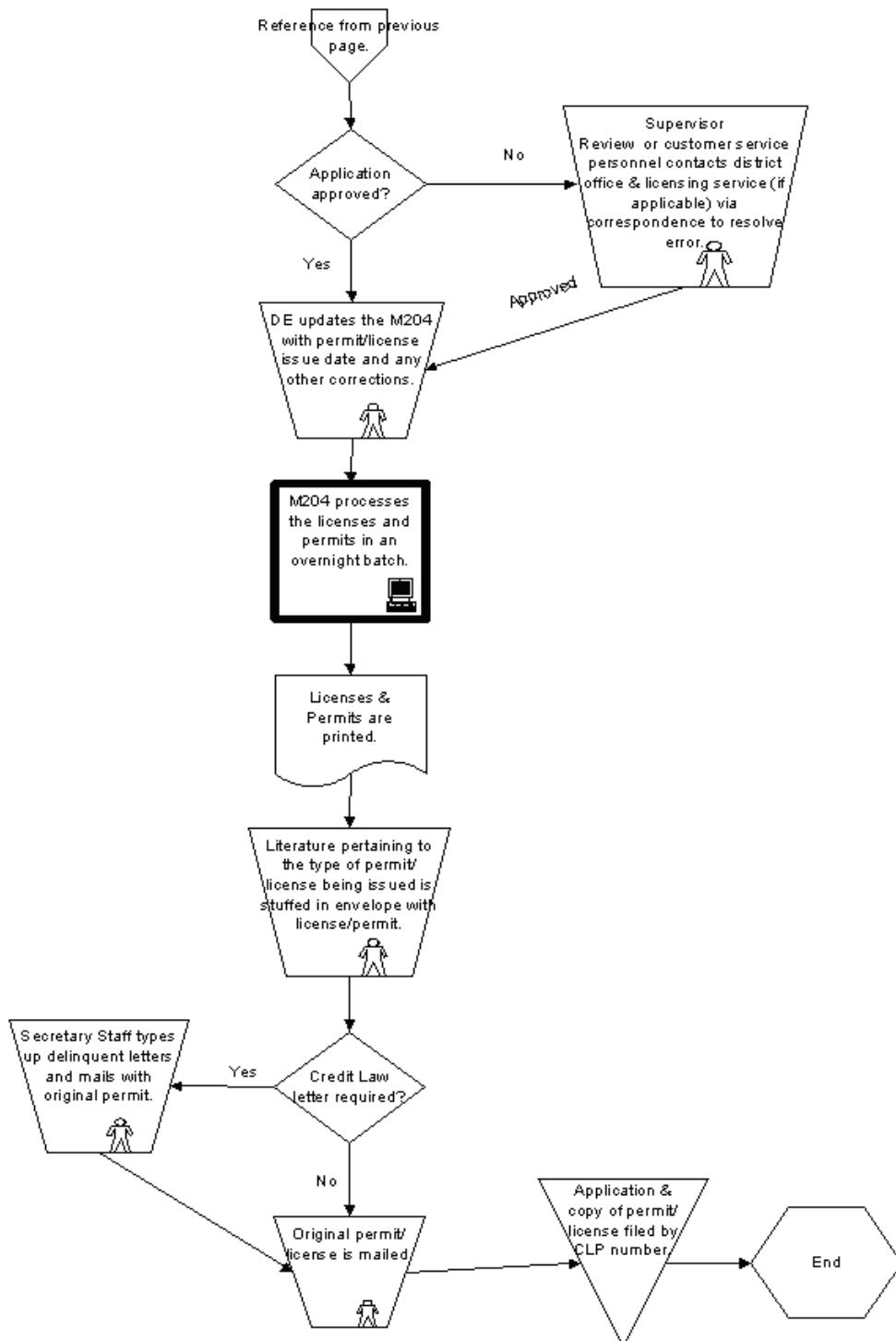
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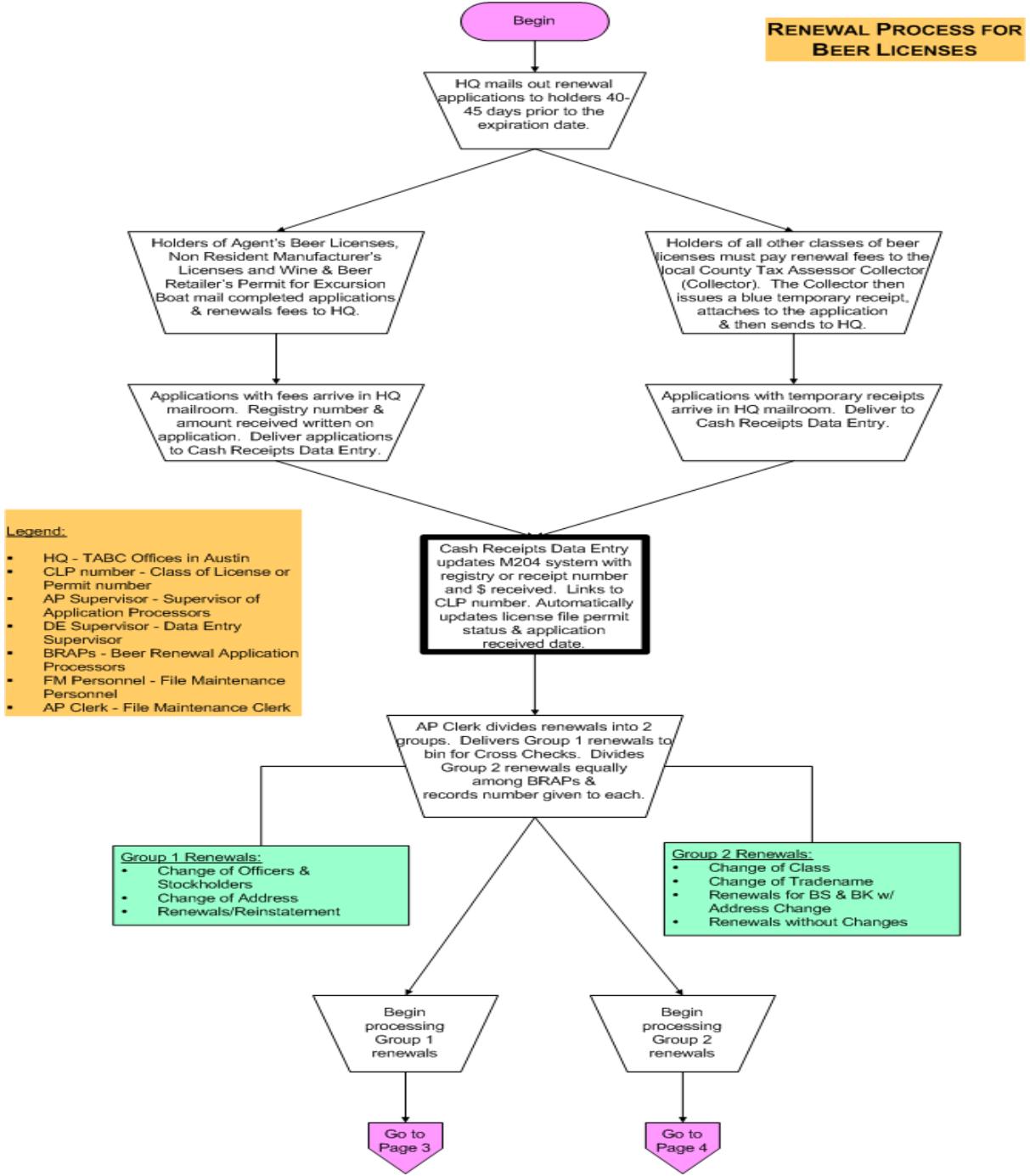




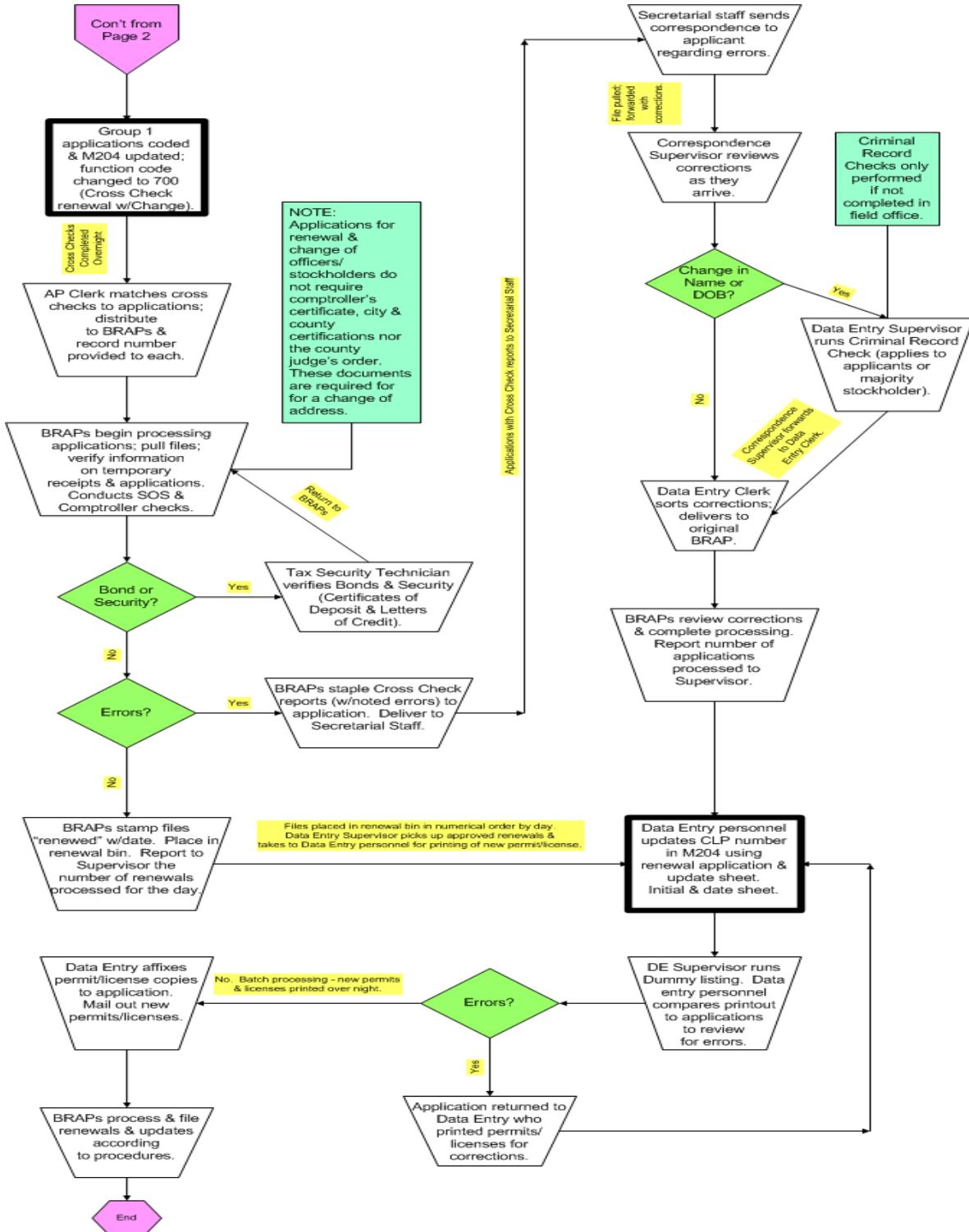


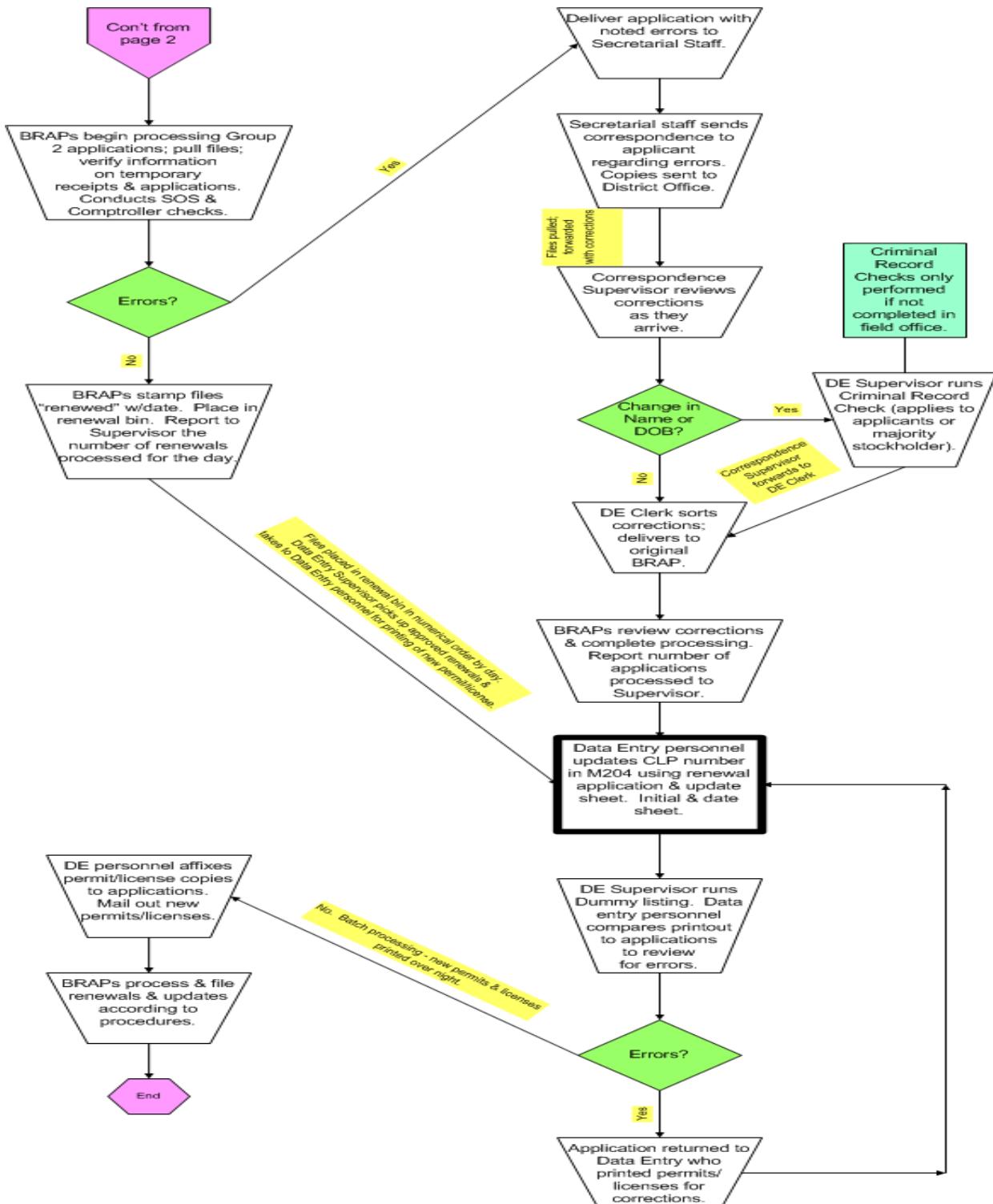




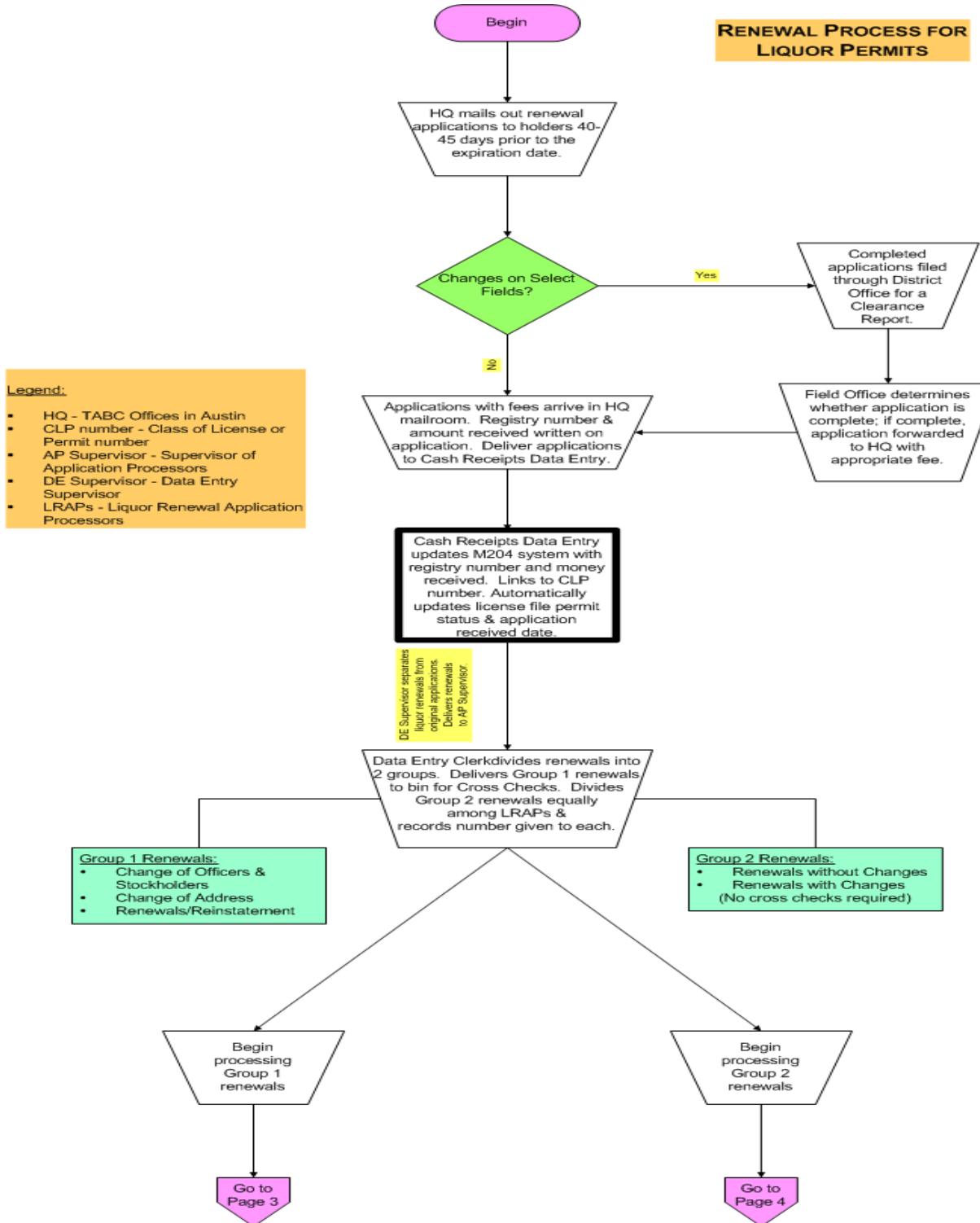


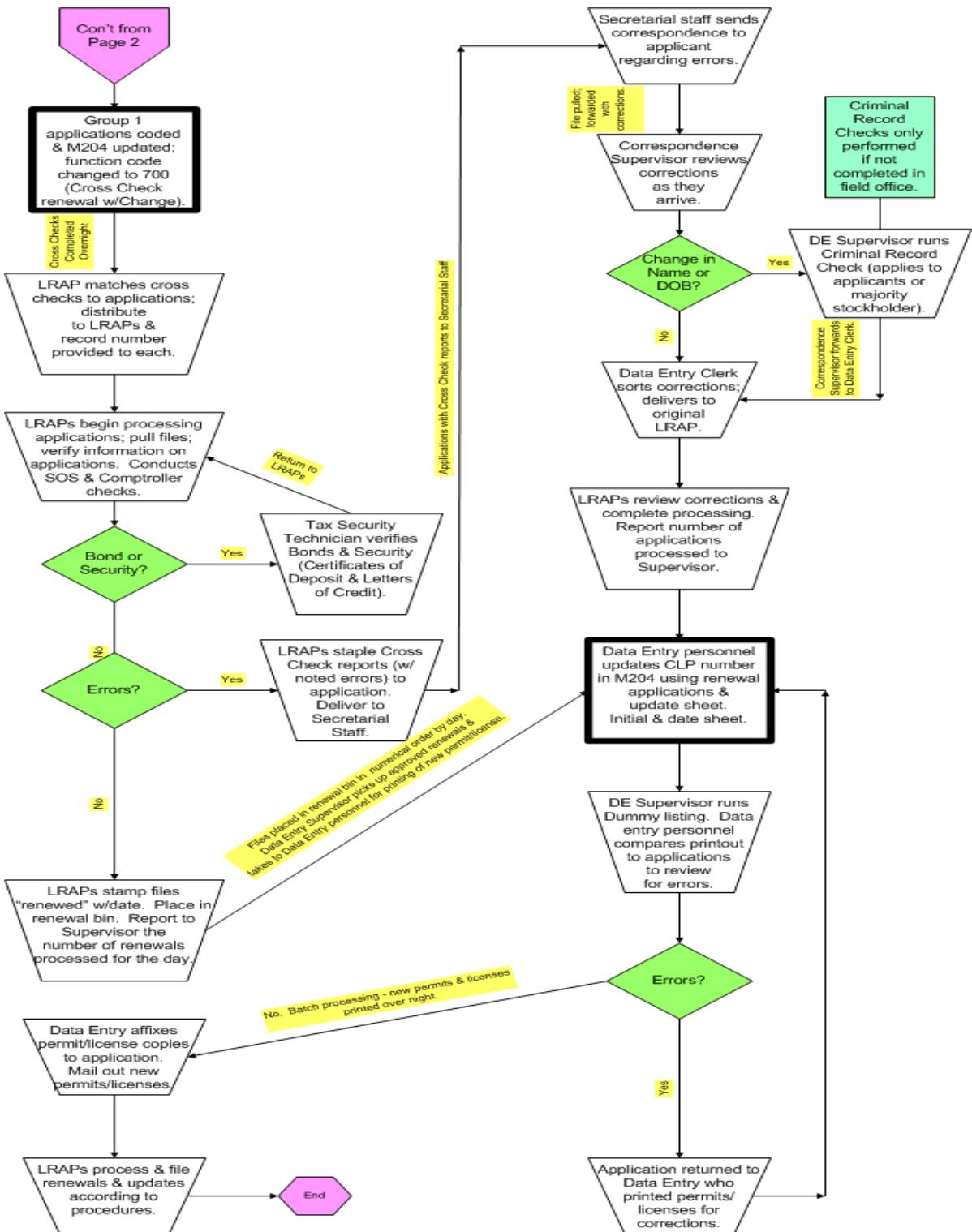
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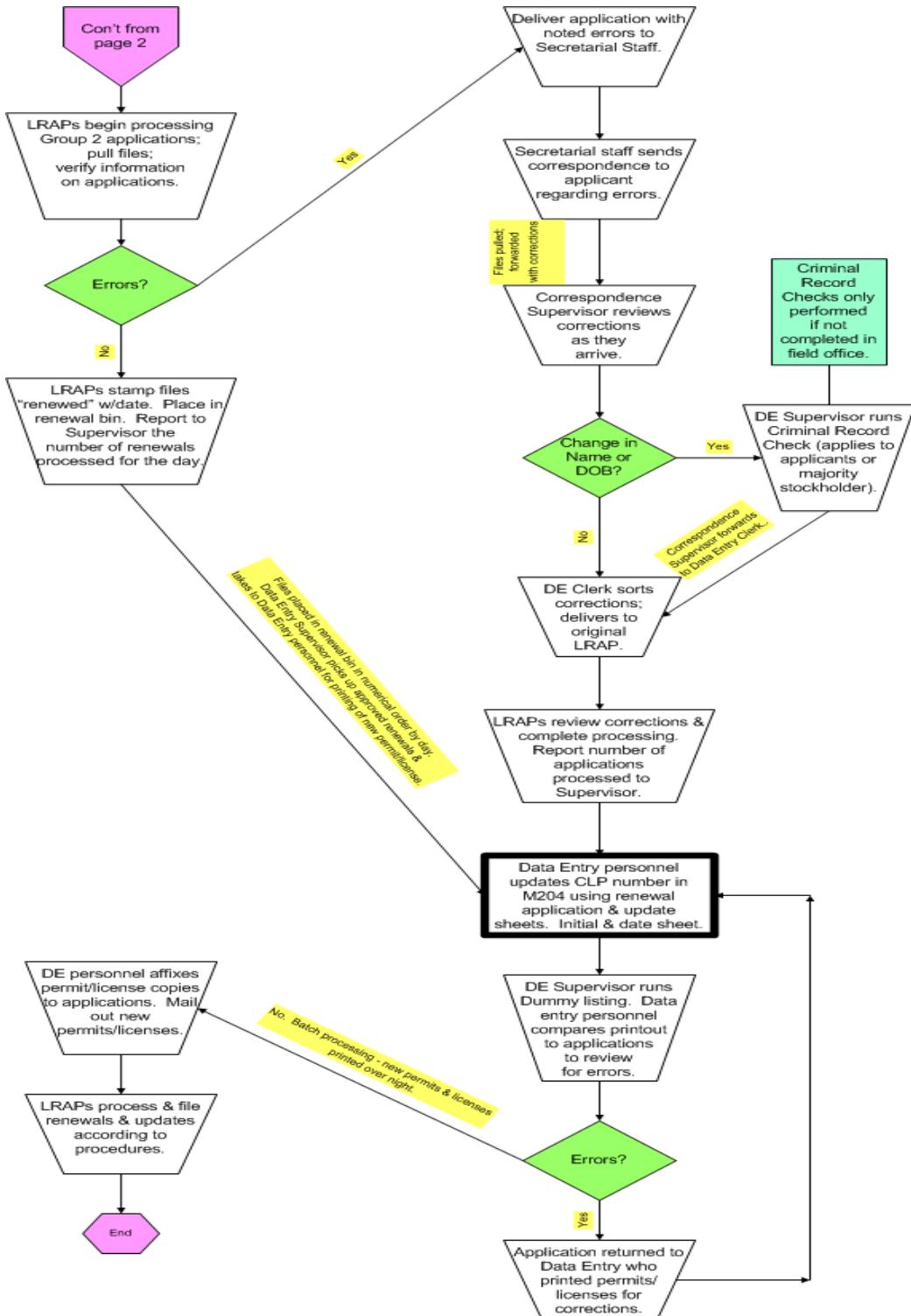


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*Self-Evaluation Report*



**G. If the program or functions works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency.**

The licensing function is replete with statutory requirements involving local (city and county) officials.

Original applications for licenses/permits located within Texas require the involvement of state and local officials as indicated in these sections of the *Texas Alcoholic Beverage Code*:

**PERMITS**

Section 11.37	Certification of Wet or Dry Status
Section 11.38	Local Fee Authorized
Section 11.392	Notice of Private Club Application or Renewal
Section 11.40	Notice to County Judge
Section 11.41	Recommendation of Local Officials
Section 11.46(B)	General Grounds for Refusal (Requirement of sales tax, Comptroller of Public Accounts)
Chapter 109, Subchapter C	Local Regulations of Alcoholic Beverages

**LICENSES**

Section 61.31	Application for License
Section 61.311	Masters in Certain Counties
Section 61.312	Delegation of Duties of County Judge
Section 61.32	Hearing by County Judge
Section 61.33	Action by Commission or Administrator (upon notice by county tax assessor-collector)
Section 61.34	Appeal from denial (by county judge)
Section 61.35	License Fees (Paid to tax assessor-collector)
Section 61.36	Local Fees Authorized
Section 61.37	Certification of Wet or Dry Status
Section 61.38	Notice of Application (duty of county clerk)
Section 61.42	Mandatory Grounds for Refusal (county judge)
Section 61.43	Discretionary Grounds for Refusal: Distributor or Retailer (county judge)
Section 61.44	Refusal of Distributor's or Retailer's License: Prohibited Interests (county judge)
Section 61.45	Refusal of Retailer's or Distributor's License: Prohibited Interests in Premises
Section 61.46	Manufacturer's License: Grounds for Refusal
Section 61.48	Renewal Application (tax assessor-collector)
Section 61.49	Renewal Application Transmitted to Commission (tax assessor

collector)

TABC has developed a voluntary partnership with the Bureau of Alcohol, Tobacco, and Firearms (BATF) of the U.S. Department of Treasury, for sharing information on licenses and permits issued by each. Also, we provide information at county clerk and county tax assessor-collector seminars and meetings.

**H. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

FY 2002

General Revenue \$1,622,993

Rider 12 Contingency Appropriation \$109,248

Appropriated Receipts \$1,478

**I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.**

Funding is appropriate if business practices remain status quo but more funding will be needed to develop and implement new technology, e-business practices, and to upgrade staffing patterns for the processing of complex business structures.

**J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.**

None

**K. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

N/A

**L. Please provide any additional information needed to gain a preliminary understanding of the program or function.**

None

**M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:**

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

Why the regulation is needed

The TABC exists to promote the health, safety, and welfare of the public and to regulate the alcoholic beverage industry by processing and issuing alcoholic beverage licenses and permits while ensuring compliance with the *Alcoholic Beverage Code*. Such compliance establishes an orderly market, fair competition, and the ability to trace and collect taxes owed the State.

The scope of, and procedures for, inspections or audits of regulated entities

During the application process the applicant, related persons and location are reviewed and investigated at various degrees of intensity by local officials for compliance and local ordinances, Texas Alcoholic Beverage Commission field personnel and the Licensing department.

Follow-up activities conducted when non-compliance is identified

When Licensing receives complaints or noncompliance is suspected, Licensing notifies licensees and permittees to take corrective action to ensure compliance. This can be in the form of correspondence to the licensee/permittee to verify or correct the deficiency or item of concern; can result in an investigation by the investigators in Licensing or assignment to the Compliance Department or Enforcement Division for investigation; or can result in the Licensing Department immediately beginning the process to deny or cancel the license/permit through an administrative process.

Sanctions available to the agency to ensure compliance

Sanctions available to the agency include suspension of the license/permit; fine paid in lieu of suspension; cancellation or denial of license/permit; forfeiture of bond and criminal charges ranging from misdemeanor to felony.

Procedures for handling consumer/public complaints

Upon receipt of a complaint from citizens, other law enforcement agencies, local and state officials in the licensing process, a supervisor or experienced agency employee reviews the complaint to determine whether it should be forwarded to the Enforcement or Compliance Departments. It is then included in the agency complaint system.

**N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.**

Complaints are maintained by the Enforcement Division.

<b>Texas Alcoholic Beverage Commission (Regulatory Program Name)</b>		
<b>Exhibit 15: Complaints <u>Against</u> Regulated Entities or Persons – Fiscal Years 2001 and 2002</b>		
	<b>FY 2001</b>	<b>FY 2002</b>
<b>Number of complaints received</b>		
<b>Number of complaints resolved</b>		
<b>Number of complaints dropped/found to be without merit</b>		
<b>Number of sanctions</b>		
<b>Number of complaints pending from prior years</b>		
<b>Average time period for resolution of a complaint</b>		
<b>Number of entities inspected or audited by the agency</b>		
<b>Total number of entities or persons regulated by the agency</b>		

**A. Please complete the following chart.**

<b>Texas Alcoholic Beverage Commission Exhibit 14: Program or Function Information — Fiscal Year 2002</b>	
<b>Name of Program or Function</b>	<b>Compliance</b>
<b>Location/Division</b>	<b>Compliance Department/Regulatory Division</b>

Contact Name	Buck Fuller
Number of Budgeted FTEs, FY 2002	51
Number of Actual FTEs as of August 31, 2002	51

**B. What are the key services of this function or program? Describe the major activities involved in providing all services.**

The key services of the compliance function are to ensure compliance with the regulatory provisions of the Alcoholic Beverage Code and rules. In addition, the compliance personnel provide instruction to promote voluntary compliance.

Field compliance officers perform a great number of activities to fulfill its goal of ensuring compliance with the Alcoholic Beverage Code in the manufacturing, importing, exporting, transporting, storing, selling, serving, and distributing of alcoholic beverages. Compliance officers conduct **inspections** of accounts to determine compliance with the code and rules. Inspections of proposed **new locations** are performed to determine if the locations conform to the licensing requirements of the code and rule as well as marketing practices requirements. **Cash and credit law violations** are either settled with the licensee/permittee directly at local level by compliance or forwarded to the Legal Department for a hearing. **Compliance audits** of the wholesale tier are performed to ensure proper reporting and payment of taxes, as well as all other regulatory compliance requirements of the code and rules. **Fee analyses** are conducted to ensure proper payment of permit fees and private club requirements are being adhered to. **Food and beverage** certificate holders are reviewed to determine if the holder is primarily a restaurant, maintaining the 50% ratio of alcohol to food, and record requirements. The Comptroller of Public Accounts notifies department personnel when accounts are excessively delinquent in their payment of the state's Mixed Beverage Gross Receipts Tax. Administrative orders are prepared on these accounts and compliance officers serve the orders of **summary suspension**. Compliance officers monitor seller/server training schools to determine if they are presenting their approved programs and that no required information is omitted from the classroom presentations. **Marketing practices** reviews are conducted and **other financial reviews**, such as money laundering and subterfuge. Field department personnel are also responsible for maintenance of the **confiscated property** and **capital equipment** inventory in field offices where a compliance officer is stationed. Additionally, the compliance officers answer many **inquires** about the alcoholic beverage code, conduct **interviews** with new applicants and will **instruct** permittees/licensees on various aspects of the code and rules.

The department provides a bi-monthly list to liquor wholesalers to prevent sales to retailers who have not timely paid for credit purchases. Delinquent retailers are released from the list when payments are received by the wholesaler and reported to the Commission. The maintenance of the list requires extensive computer data entry.

To ensure compliance with the Alcoholic Beverage Code in the manufacturing, importing, exporting, transporting, storing, and distributing of alcoholic beverages, personnel receive and process monthly reports, ensure the excise tax has been properly paid and that other reporting requirements are in adherence with the statutes of the Alcoholic Beverage Code.

The regulatory function of verifying the importation of legal alcoholic beverages is an important aspect of the excise tax function and constitutes 80% of the report checking process. New brands, container sizes, and changes in alcohol content of alcoholic beverages are constantly being produced by the industry. Various changes in alcohol content and container sizes in distilled spirits, wine, beer, and malt liquor must be verified to provide consistent regulation and enforcement of marketing practices requirements. To prevent the illegal importation of illicit products, insure that approved products are being properly reported, and appropriate distribution channels are utilized, the excise tax section works closely with the commission's chemist, enforcement agents, and compliance officers.

Certification of seller training schools, trainers, and their curriculum, provides the industry and their employees with the information necessary to successfully abide by laws concerning the sale and service of alcoholic beverages to minors and intoxicated persons. A database of all individuals who have successfully completed a seller training class is maintained in order to provide verification for employers and to assist in processing restrained administrative cases.

Field compliance officers monitor sessions to evaluate the program content, trainer presentation and the classroom environment. Record inspections are made to insure compliance with relevant rules and procedures.

**C. When and for what purpose was the program or function created? Describe any statutory or other requirements for this program or function.**

Effective January 1, 1994, the gross receipts tax collection and auditing functions were transferred from the Auditing Division to the Comptroller of Public Accounts. Effective April 1, 1994, the bingo audit function was transferred from the division to the Lottery Commission. The Compliance Department was then renamed to better reflect the duties remaining and the new duties assumed by the department. The reorganization in August 1, 1994, resulted in the Compliance Department assuming numerous new duties, including the Seller/Server Training duties and many non-law enforcement duties from the Enforcement Division. While the gross receipts tax collection and audit function were transferred, an audit function remained, but it is more of a compliance audit than tax verification. The remaining audit function of the wholesale tier of the alcoholic beverage industry consists of marketing practices reviews, cash/credit law requirements, purchases and inventory, exemptions records, as well as proper reporting of product and payment of excise taxes. In addition investigations and audits are conducted to determine true ownership of retail licenses and permits, cash and credit law abuses, qualifications for obtaining a license or permit, as well as other suspected violations of the Alcoholic Beverage Code and rules of the

Commission. In addition, the 1995 legislative session resulted in the additional duties. Bills created alcohol free school zones, a food and beverage certificate, and required conduct surety bonds of certain licensees/permittees. With these bills, the Compliance Department personnel assumed additional responsibilities of conducting analyses, and inspections of food and beverage certificate holders to ensure adherence to the Code and rules, and inspections of premises to determine the premises' proximity to schools where alcohol free schools zones were authorized. Key statutory or other requirements are found in the **Texas Alcoholic Beverage Code under:**

**Code §206.08. Coordination of Audits.** (a) Before the commission makes a demand to a licensee or permittee for any taxes due, as established by an audit, the commission shall:....(2) review the audit in the commission headquarters with the office of quality control to ensure that the uniform application of audit standards has been applied in all aspects to the audit;

**Code §5.33. Regulate Licensees and Permittees.** The commission shall supervise and regulate licensees and permittees and their places of business in matters affecting the public. This authority is not limited to matters specifically mentioned in this code.

**Code §5.31. General Powers and Duties.** The commission may exercise all powers, duties, and functions conferred by this code, and all powers incidental, necessary, or convenient to the administration of this code. It shall inspect, supervise, and regulate every phase of the business of manufacturing, importing, exporting, transporting, storing, selling, advertising, labeling, and distributing alcoholic beverages, and the possession of alcoholic beverages for the purpose of sale or otherwise. It may prescribe and publish rules necessary to carry out the provisions of this code.

Reason for Inspections and to confirm compliance with this section:

**Code §11.06. Privileges Limited to Licensed Premises.** No person may use a permit or exercise any privileges granted by the permit except at the place, address, premises, or location for which the permit is issued, except as otherwise provided by this code.

Additional reason for inspections of retailers not previously in business, compliance of:

**Code §61.43(a)(8). Discretionary Grounds for Refusal: Distributor or Retailer.**

(a)(8) the premises on which beer is to be sold for on-premise consumption does not have running water, if is available, or does not have separate free toilets for males and females, properly identified, on the premises for which the license is sought.

Diagramed Premises Inspections:

**Code §11.49(b) (1). Premises Defined; Designation of Licensed Premises.** Subject to the approval of the commission or the administrator, and except as provided in Subsection (c) of this section, an applicant for a permit license may designate a portion of the grounds, buildings, vehicles, and appurtenances to be excluded from the licensed premises.

Reason for Package Store Permit Inspections:

**Code §22.14.(a) (b) and (c) Separate Premises Required.** (a) The premises of a package store shall be completely separated from the premises of other business by a solid, opaque wall.....(b) The premises of a package store shall have a front door through which the public may enter.....(c)For all premises built

or first occupied as a package store on or after September 1, 1995, the premises of a package store shall include:....(rear or side entrance...and ADA bathroom)

Reason for Food and Beverage Inspections:

**Code §25.13(a)and (b). Food and Beverage Certificate.** **(a)** A holder of a wine and beer retailer's permit may be issued a food and beverage certificate by the commission if food service is the primary business being operated on the premises by the permittee. **(b)** An applicant or holder of a food and beverage certificate shall have food service facilities for the preparation and service of multiple entrees. The commission shall adopt rules as necessary to assure that the holder of a food and beverage certificate maintains food service as the primary business on the premises for which a food and beverage certificate has been issued.

**Rule §33.5(i)** The commission may review the operation at the licensed premises to determine the applicant or holder of the food and beverage certificate has or is maintaining food service with food service facilities for the preparation and service of multiple entrees.

**Code §6.03(h)** It is also the public policy of this state and a purpose of this section to enforce strict cash and credit laws as a means of preventing those engaged in the distribution of alcoholic beverages from exerting undue influence over any level of the industry selling or serving alcoholic beverages to the ultimate consumer.

**and Code §61.73 (a) and (b). Retail Dealer: Credit Purchase or Dishonored Check.** **(a)** The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on-or off-premise license if it is found, .....that the licensee purchased beer ....except by cash payment to the seller on or before delivery.

**(b)** The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it found,.....that the licensee gave a check.....which is dishonored when presented for payment.

and Code §102.31. Cash Payment Required.

**Code §32.12. Inspection of Premises.** The acceptance of a private club registration permit constitutes an express agreement and consent on the part of the private club that any authorized representative of the commission or any peace office has the right and privilege to freely enter the club premises at any time to conduct an investigation or to inspect the premises for the purpose of performing a duty imposed by this code.

**and Code §32.13. Inspection of Books and Records.** All books and records pertaining to the operation of any permittee club, including a current listing, correct to the last day of the preceding month, of all members of the club who have liquor stored on the club premises under either the locker or pool system shall be made available to the commission or its authorized representatives on request.

**and Code §32.16. Unauthorized Membership.** No private club registration permittee may allow its average membership to exceed that authorized by its permit.

**Code §25.13 (d). Food and Beverage Certificate.** ...A certificate may be canceled at any time if the commission finds that the holder of the certificate is not operating primarily as a food service establishment. For purposes of this section, it shall be presumed that a permittee is not primarily

operating as a food service establishment if alcohol sales are in excess of 50 percent of the gross receipts of the premises.

**and Rule § 33.5 (l)** In verifying that the certificate holder is maintaining food service as the primary business on the premises, the commission may examine all books, papers, records, documents, supplies and equipment of the certificate holder.

**and Rule §33.5 (m) (4)** in examining the alcoholic beverage sales, the commission may compute and determine the percentage of alcoholic beverage sales upon the basis of information filed with the commission or held by the certificate holder, but if such information is insufficient, the computation and determination of the percentage of sales may be based upon any records or information which is available.

Monitoring:

**Code §106.14 Actions of Employee.** (a) For purpose of this chapter and any other provision of this code relating to the sales, service, dispensing, or delivery of alcoholic beverages to a minor or an intoxicated person or the consumption of alcoholic beverages by a minor or an intoxicated person, the actions of an employee shall not be attributable to the employer if: (1) the employer requires its employees to attend a commission approved seller training program...

**and Rule §50.4(c) Program Administration.** Sessions may be monitored unannounced to evaluate the program content, trainer presentation and the classroom environment.

Trainer Testing:

**Rule §50.6 (d)** An original trainer applicant must have first successfully completed an examination administered by the Texas Alcoholic Beverage Commission, with a minimum correct score of 80%.

Records audit:

**Rule §50.4(n)** Each test must be maintained by the school for a period of at least four years and be made available to the commission upon request.

**and §50.4 (s)(5)** The copies of all certificates issued shall be kept for a period of four years

Disposition / Destruction of seized alcoholic beverages:

**Code §103.08. Sale of Beer.** (a) Any beer, its container, or its packaging which is seized under the terms of this chapter shall be disposed of in accordance with this section... (c) If the beer is determined not to be in a salable condition, the commission shall immediately destroy it. If it is determined to be in a salable condition, it shall be offered for sale to the distributor or manufacturer.

**and Code §103.09 Sale Of Liquor.**

**Code §28.17 (b) Summary Suspension.** (b) A suspension under this section takes effect on the third day after the date the notice of suspension is provided. Notice of suspension shall be sent by registered or certified mail to the permittee or the permittee's agent, servant, or employee if not given in person.

**Rule §41.54. Destructions.** (d) (1) notify the nearest authorized representative of the commission of the intent to destroy the alcoholic beverages at least three full working days prior to destruction. (d) (2) Receive written approval from the nearest authorized representative of the commission to conduct the

destruction.

41.54(e) The licensee or permittee must obtain the following documentation for the tax exemption or credit claimed: (1) A signed written approval for the destruction of the alcoholic beverages from the nearest authorized representative of the commission.

41.54(g) The commission may designate an authorized representative to be present during the destruction of the alcoholic beverages.

#### Credit Law

**Code §6.03(c)** During Prohibition, the illegal enterprises used their national wholesale distribution networks to exert control over their customers. A common operating procedure was to sell alcoholic beverages to a speakeasy on liberal terms to ensnarl the owner in a web of debt and control with the aim of forcing the owner to engage in other illegal business enterprises on the premises including gambling, prostitution, and the distribution of illegal drugs.

**Code §6.03(e)** Under the newly designed regulatory scheme, permits and licenses issued by the state did not grant the holder a right. Rather, the holder was granted a privilege that could be challenged at both the county and the state level if the character or qualifications of the applicant were suspect.

Finally, strict cash and credit laws were adopted to prevent parties in the wholesale distribution system from controlling their retail customers through the leveraging of debt to accomplish other illicit gain.

**Code §6.03(h)** It is also the public policy of this state and a purpose of this section to enforce strict cash and credit laws as a means of preventing those engaged in the distribution of alcoholic beverages from exerting undue influence over any level of the industry selling or serving alcoholic beverages to the ultimate consumer.

**Code §102.32. Sale of Liquor: Credit Restrictions...**(b) No wholesale dealer may sell and no retailer may purchase liquor except for cash or on terms requiring payment by the retailer in accordance with Subsection (c) of this section. (c) On purchases made from the 1<sup>st</sup> through 15<sup>th</sup> day of a month, payment must be made on or before the 25<sup>th</sup> day of that month. On purchases made on the 16<sup>th</sup> through the last day of a month, payment must be made on or before the 10<sup>th</sup> day of the following month.

**Rule §45.12(e) Delinquent List.** Following each delinquency reporting date...no sale or deliveries of alcoholic beverages shall be made to any...or other retailer whose name appears upon said delinquent list until such time as notice of removal from such list has been given in writing by the commission.

#### Excise Tax

**Code §5.31. General Powers and Duties.** The commission may exercise all powers, duties, and functions conferred by this code, and all powers incidental, necessary, or convenient to the administration of this code. It shall inspect, supervise, and regulate every phase of the business of manufacturing, importing, exporting, transporting, storing, selling, advertising, labeling, and distributing alcoholic beverages, and the possession of alcoholic beverages for the purpose of sale or otherwise. It may prescribe and publish rules necessary to carry out the provisions of this code.

**Code §5.33. Regulate Licensees and Permittees.** The commission shall supervise and regulate licensees and permittees and their places of business in matters affecting the public. This authority is not

limited to matters specifically mentioned in this code.

**Code §5.32 May Require Reports.** The commission may require the filing of reports and other data by persons engaged in the alcoholic beverage business which the commission finds necessary to accomplish the purposes of this code.

**Code §5.38. QUALITY AND PURITY OF BEVERAGES.** The commission shall require by rule that any alcoholic beverage sold in this state conform in all respects to its advertised quality. The commission shall promulgate and enforce rules governing the labeling and advertising of all alcoholic beverages sold in the state, and shall adopt and enforce a standard of quality, purity, and identity of all alcoholic beverages. The commission shall promulgate and enforce necessary rules to safeguard the public health and to insure sanitary conditions in the manufacturing, refining, blending, mixing, purifying, bottling, rebottling, and sale of alcoholic beverages.

**Code §Sec. 5.39. REGULATION OF LIQUOR CONTAINERS.** The commission shall adopt rules to standardize the size of containers in which liquor may be sold in the state and relating to representations required or allowed to be displayed on or in the containers. To accommodate the alcoholic beverage industry's conversion to the metric system, the commission shall adopt rules permitting the importation and sale of liquor in metric-sized containers as well as in containers sized according to the United States standard gallon system.

**Code §34.04. Taxes.** (a) The taxes imposed by this code shall be paid on all alcoholic beverages on a commercial passenger aircraft departing from an airport in this state, in accordance with rules and regulations prescribed by the commission. (b) The preparation and service of alcoholic beverages by the holder of an airline beverage permit is exempt from the tax imposed by the Limited Sales, Excise and Use Tax Act. An airline beverage service fee of five cents is imposed on each individual serving of an alcoholic beverage served by the permittee inside the state.

**Code §Sec. 37.07. PROHIBITED ACTIVITIES.** No holder of a nonresident seller's permit, nor any officer, director, agent, or employee of the holder, nor any affiliate of the holder, regardless of whether the affiliation is corporate or by management, direction, or control, may do any of the following:

(1) hold or have an interest in the permit, business, assets, or corporate stock of a person authorized to import liquor into this state for the purpose of resale unless the interest was acquired on or before January 1, 1941, or unless the permittee is a Texas corporation holding a manufacturer's license and a brewer's permit issued before April 1, 1971;

(2) fail to make or file a report with the commission as required by a rule of the commission;

(3) sell liquor for resale inside this state that fails to meet the standards of quality, purity, and identity prescribed by the commission;

(4) advertise any liquor contrary to the laws of this state or to the rules of the commission, or sell liquor for resale in this state in violation of advertising or labeling rules of the commission;

(5) sell liquor for resale inside this state or cause it to be brought into the state in a size of container prohibited by this code or by rule of the commission;

(6) solicit or take orders for liquor from a person not authorized to import liquor into this state for the purpose of resale;

(7) induce, persuade, or influence, or attempt to induce, persuade, or influence, a person to violate this code or a rule of the commission, or conspire with a person to violate this code or a rule of the commission; or

(8) exercise a privilege granted by a nonresident seller's permit while an order or suspension against the permit is in effect.

**Code §Sec. 37.11. SUBMISSION OF SAMPLES AND LABELS.** (a) Before a nonresident seller's permittee may ship distilled spirits into this state, he shall furnish the commission samples of each brand, properly labeled and in the containers in which they are to be sold. He shall submit with the samples applications for label approval for each brand.

(b) The commission or its authorized agents shall test the contents and examine the label and container of the samples and determine whether they meet all requirements of state law and of the rules of the commission. If the label, container, and contents are found to be in compliance, the commission shall issue the permittee a certificate to that effect.

(c) As to distilled spirits imported directly from the distiller, bottler, or the exclusive agent of either, or distilled spirits distilled or bottled by the nonresident seller or by a distiller or bottler for whom the nonresident seller is the exclusive agent, if the samples are approved under Subsection (b) of this section, the permittee is not required to submit additional samples unless there is a change in the label, contents, or style or size of the container, or unless he is directed to do so by the commission.

(d) As to all other distilled spirits, samples must be furnished to the commission for each brand and size in each proposed shipment into the state, together with a sworn statement of the quantity and sizes to be shipped, the permittee to whom the spirits are to be shipped, and the person or firm from whom they are to be shipped. The permittee may not ship the distilled spirits until he has in his possession a certificate of approval from the commission.

in the amount of \$25 payable to the commission. A copy of the certificate shall be kept on file in the office of the commission.

**Code §Sec. 37.12. INSPECTION OF RECORDS, DOCUMENTS, ETC.** (a) In this section, "officer" means a representative of the commission, the attorney general, or an assistant or representative of the attorney general.

(b) If an officer wishes to examine the books, accounts, records, minutes, letters, memoranda, documents, checks, telegrams, constitution and bylaws, or other records of a nonresident seller's permittee, he shall make a written request to the permittee or his duly authorized manager or representative or, if the permittee is a corporation, to any officer of the corporation. An officer may examine the records as often as he considers necessary.

(c) When a request for an examination is made, the person to whom it is directed shall immediately allow the officer to conduct the examination, and the person shall answer under oath any question asked by the officer relating to the records.

(d) The officer may investigate the organization, conduct, and management of any nonresident seller's permittee and may make copies of any records which in the officer's judgment may show or tend to show that the permittee has violated state law or the terms of his permit.

(e) An officer may not make public any information obtained under this section except to a law enforcement officer of this state or in connection with an administrative or judicial proceeding in which the state or commission is a party concerning the cancellation or suspension of a nonresident seller's permit, the collection of taxes due under state law, or the violation of state law.

(f) The commission shall cancel or suspend a nonresident seller's permit in accordance with this code if a permittee or his authorized representative fails or refuses to permit an examination authorized by this section or to permit the making of copies of any document as provided by this section, without regard to whether the document is inside or outside the state, or if the permittee or his authorized representative fails or refuses to answer a question of an officer incident to an examination or investigation in progress.

**Code §48.04 Taxes.** (a) The taxes imposed by this code shall be paid on all alcoholic beverages on a commercial passenger train departing from a depot in this state in accordance with the rules prescribed by the commission.

**Code §101.43. MISBRANDING OF BREWERY PRODUCT.** (a) No manufacturer or distributor, directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may sell or otherwise introduce into commerce a brewery product that is misbranded.

(b) A product is misbranded if:

- (1) it is misbranded within the meaning of the federal Food and Drug Act;
- (2) the container is so made or filled as to mislead the purchaser, or if its contents fall below the recognized standards of fill;
- (3) it misrepresents the standard of quality of products in the branded container; or
- (4) it is so labeled as to purport to be a product different from that in the container.

**Code §Sec. 101.44. CONTAINERS OF BEER: CAPACITIES.** No person may possess, sell, or transport any beer except in containers having a capacity of one barrel, one-half barrel, one-quarter barrel, or one-eighth barrel, or in bottles or cans having a capacity of 32, 24, 16, 12, 8, or 7 fluid ounces.

**Code §Sec. 101.45. CONTAINERS OF WINE: MAXIMUM CAPACITY.** No person may sell wine to a retail dealer in containers with a capacity greater than 4.9 gallons.

**Code §Sec. 101.46. CONTAINERS OF LIQUOR: MINIMUM CAPACITIES.** (a) Except as provided by Subsections (b), (c), and (d) of this section, no person may import, sell, or possess with intent to sell any liquor in a container with a capacity of less than 1.6 six fluid ounces. A container of liquor offered for sale that has a capacity of less than six fluid ounces must substantially conform to the labeling requirements of the Bureau of Alcohol, Tobacco, and Firearms for larger containers in which liquor is sold. Holders of distiller's or rectifier's permits wishing to sell liquor bottled in containers of less than six fluid ounces to wholesalers must sell such containers of liquor to wholesalers in units of unbroken, sealed cases. Wholesalers shall sell liquor bottled in containers of less than six fluid ounces to package stores in units of unbroken, sealed cases. Containers of liquor with a capacity of less than six fluid ounces offered for sale in a package store must be sold in units of sealed packages featuring multiple bottles of liquor.

**Code §Sec. 101.66. BEVERAGES OF CERTAIN ALCOHOL CONTENT PROHIBITED.** No person may manufacture, sell, barter, or exchange a beverage that contains alcohol in excess of one-half of one percent by volume and not more than four percent of alcohol by weight, except beer, wine coolers, and spirit coolers.

**Code §Sec. 101.67. PRIOR APPROVAL OF MALT BEVERAGES.** (a) No person may ship or cause to be shipped into the state, import into the state, manufacture and offer for sale in the state, or distribute, sell, or store in the state any beer, ale, or malt liquor unless:

(1) a sample of the beverage or a sample of the same type and quality of beverage has been first submitted to the commission for analysis and been found by the commission or its representative to comply with all rules and regulations of the commission relating to quality, purity, and standards of measure; and

(2) the label of the beverage has been first submitted to the commission or its representative and found to comply with all provisions of this code relating to the labeling of the particular type of beverage.

(b) Only a brewer's or nonresident brewer's permittee or a manufacturer's or nonresident manufacturer's licensee may apply for and receive label approval on beer, ale, or malt liquor.

(c) This section does not apply to the importation of beer for personal consumption and not for sale.

(d) If the commission determines that the sample and label required by Subsection (a) of this section comply with the provisions of this code and the rules of the commission, the commission shall issue a certificate of approval upon receipt of a fee in the amount of \$25. A copy of the certificate shall be kept on file in the office of the commission.

**Code §201.03. Tax on Distilled Spirits.** (a) A tax is imposed on the first sale of distilled spirits at the rate of \$2.40 per gallon.

(b) The minimum tax imposed on packages of distilled spirits containing two ounces or less is five cents per package.

(c) Should packages containing less than one-half pint but more than two ounces ever be legalized in this state, the minimum tax imposed on each of these packages is \$0.122.

**Code §201.04. Tax on Vinous Liquor** (a) A tax is imposed on the first sale of vinous liquor that does not contain over 14 percent of alcohol by volume at the rate of 20.4 cents per gallon.

(b) A tax is imposed on vinous liquor that contains more than 14 percent of alcohol by volume at the rate of 40.8 cents per gallon.

(c) A tax is imposed on artificially carbonated and natural sparkling vinous liquor at the rate of 51.6 cents per gallon.

**Code §201.06. Payment of Tax;** (a) The tax on liquor, levied and computed under this subchapter, shall be paid by a remittance payable to the comptroller and forwarded together with any required sworn statement of taxes due to the commission....

**Code §201.42. Tax on Ale and Malt Liquor** A tax is imposed on the first sale of ale and malt liquor at the rate of \$0.198 per gallon.

**Code §201.48. Payment.** The tax on ale and malt liquor shall be paid by a remittance payable to the comptroller and forwarded, together with any required sworn statements of taxes due, to the commission in Austin....

**Code §201.49. May Require Information.** (a) The commission may require all brewers, nonresident brewers, importers, wholesalers, and class B wholesalers of ale and malt liquor to provide information as to purchases, sales, and shipments to enable the commission to collect the full amount of the tax due.

**Code §203.01. Tax on Beer** A tax is imposed on the first sale of beer manufactured in this state or imported into this state at the rate of six dollars per barrel.

**Code §203.09. Statements.** (a) The commission may require manufacturers of beer manufactured in this state.... and distributor's to provide information as to purchases, sales, and shipments to enable the commission to collect the full amount of beer tax due.

**Rule §41.46. Beer-In General as well as Rule §41.53. Required Records for Brewpubs**

**Rule §'s 41.31. Tax, and 41.32 through 41.41** outlining various required excise reports

**Rule §41.47. Airline Beverage Permits.**

**Rule §41.54. Destructions.** (d) (1) notify the nearest authorized representative of the commission of the intent to destroy the alcoholic beverages at least three full working days prior to destruction. (d) (2) Receive written approval from the nearest authorized representative of the commission to conduct the destruction.

**Rule §41.54(e)** The licensee or permittee must obtain the following documentation for the tax exemption or credit claimed: (1) A signed written approval for the destruction of the alcoholic beverages from the nearest authorized representative of the commission.

**Rule §41.54(g)** The commission may designate an authorized representative to be present during the destruction of the alcoholic beverages.

The purpose of the Excise Tax Section is to receive and process all required reports and other data filed by persons licensed to manufacture, distribute, import, export, transport and store alcoholic beverages. 20,859 informational reports and 7,360 tax reports representing \$162,324,517 revenue for the state were processed during FY2002. The regulatory function includes verifying the importation of approved alcoholic beverages. A major function of the excise tax section is to prevent the importation of illegal alcoholic beverages.

Seller/Server Training

**Code §106.14 Actions of Employee.** (a) For purpose of this chapter and any other provision of this code relating to the sales, service, dispensing, or delivery of alcoholic beverages to a minor or an intoxicated person or the consumption of alcoholic beverages by a minor or an intoxicated person, the actions of an employee shall not be attributable to the employer if: (1) the employer requires its employees to attend a commission approved seller training program...

**Rule 50. ALCOHOL AWARENESS AND EDUCATION**

**Rule §50.1. Purpose.**

The purpose of this subchapter is:

- (1) to establish the minimum substantive and procedural requirements for approval of seller training programs as authorized by the Texas Alcoholic Beverage Code, §106.14;
- (2) to establish eligibility, requirements, and procedures for conducting seller training programs;
- (3) to establish eligibility, requirements, and procedures for certification of trainers and employees by the commission;
- (4) to establish requirements and procedures calculated to modify behavior of trainees; and
- (5) to establish requirements calculated to deter future violations of the Texas Alcoholic Beverage Code by the licensees or permittees.

**D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program or function will no longer be needed?**

In January 1994, the Auditing Division was renamed the Compliance Department after the transfer of the mixed beverage gross receipts to the Comptroller's Office. While the department has always conducted regulatory duties, they were expanded with the shift of the gross receipts tax. The agency transferred regulatory duties that did not require a commissioned peace officer to conduct, but were being conducted by them. This allowed the agents more time to focus on law enforcement duties. There have been duties added as new legislation has passed, however, the type of regulatory work remains the same. There will not be a time when this function is no longer needed as long as the TABC Code has restrictions on the methods of operation for the alcoholic beverage industry.

The credit law restrictions have remained basically the same since its inception. The Credit Law program will continue to be required as long as sections §6.03(h) and §102.32 of the TABC Code remain in effect. The excise tax function will need to continue indefinitely. The seller/server training program has remained basically the same since its inception in 1987. There have been several additions to the curriculum, including a section on Fetal Alcohol Syndrome. The 78<sup>th</sup> Legislature passed a law to include the sell of alcoholic beverages to a non-member in a private club under §106.14 Actions of Employee. There will not be a time when this function is no longer needed as long as section §106.14 of the TABC Code is in effect.

**E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.**

This function affects all levels of the distribution system of alcoholic beverages, applicants for an alcoholic beverage permit/license, and seller/server training schools. Qualifications for persons/entities affected are license holders, permit holders, applicants for a license/permit, and approved seller/server schools.

As of May 31, 2003, the number of licensees and permittees subject to compliance activity was 40,002. The number of seller/server schools was 149, 755 trainers and 337,644 trained sellers/servers.

The credit law restrictions affect wholesalers who sell and retailers who purchase malt liquor, wine, or distilled spirits. Currently, there are approximately 845 wholesalers and 34,250 retailers.

The department receives and processes reports from the following licensees and permittees as of 07/01/2003:

Manufacturers (9), Brewers (10), Distributors (174), Wholesalers (231), Brewpubs (22), Wineries (105), Distilleries (1), Airlines/Passenger Trains (19), Nonresident Sellers/Manufacturers (1,339), Carriers (446), Industrials (58), Public Storage (7), and Forwarding Centers (24).

The basic requirements for holding a permit or license are outlined in discussions concerning the licensing program.

The seller/server training affects alcoholic beverage retailers, their employees, and the schools and trainers who participate in the seller training program. It ultimately affects the general public in that its intention is to stop the sell of alcoholic beverages to minors and intoxicated persons.

**School qualifications:**

No licensee or permittee, or his spouse, agent, servant, or employee, or any subsidiary or affiliate, may directly or indirectly conduct, sponsor, or support a seller training program approved under this chapter except as provided in the Texas Alcoholic Beverage Code, §106.14(c) and (d).

A bona fide state retail trade association qualified under this section may train personnel of its own regular membership and non-members of the retail alcoholic beverage industry. For the purposes of this subsection, package stores which hold local distributor's permits, and private clubs, shall be considered to be retailers. State retail trade associations may also train individual members of the general public.

To qualify under this subsection a retail trade association must:

- (1) be an organization whose retail members employ at least 150 persons at anyone time during the calendar year who sell, serve, or prepare alcoholic beverages;
- (2) not be composed of more than 50% of the retail members of a particular retail chain;
- (3) not be composed of more than 50% of the trainable employees from a particular retail chain.

No licensee, permittee, or other person engaged in the manufacturing or wholesaling level of the alcoholic beverage industry, or any agent, servant, or employee of any of those, may directly or indirectly conduct or sponsor a seller training program for retail level employees or members of the general public. The commission shall approve seller training programs meeting such requirements that are sponsored either privately, by public community colleges, or by public or private institutions of higher education that offer a four-year undergraduate program and a degree or certificate in hotel or motel management, restaurant management, or travel or tourism management.

The commission may approve under this section a seller training program sponsored by a licensee or permittee for the purpose of training its employees whether or not such employees are located at the same premises. This subsection shall only apply to licensees or permittees who employ at least 150 persons at any one time during the license or permit year who sell, serve, or prepare alcoholic beverages. The commission may approve under this section a seller training program conducted by a hotel management company or a hotel operating company for the employees of five or more hotels operated or managed by the company if:

- (1) the seller training program is administered through the corporate offices of the company; and
- (2) the hotels employ a total of at least 200 persons at one time during the license or permit year who sell, serve, or prepare alcoholic beverages.

**Trainer qualifications:**

Each application shall include certification by an approved seller training program entity or school that the applicant is qualified and competent to teach that seller training program. The renewal applications shall include documentation of the required continuing education hours.

An original trainer applicant must have first successfully completed an examination administered by the Texas Alcoholic Beverage Commission, with a minimum correct score of 80%.

The applicant must not have been convicted of or granted deferred disposition for, a felony, or a misdemeanor related to theft, fraud or the abuse of alcoholic beverages or controlled substances, and three years must have passed since the discharge of any sentence imposed as a result of the conviction or deferred disposition.

**Trainee qualifications:**

Trainees must successfully complete a seller training class and pass the final test. The program currently has (05/31/2003) 149 schools, 755 trainers, and 337,644 trained sellers/servers.

**F. Describe how the program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe the agency policies and procedures. List any field or regional services.**

The central operation is headquartered in Austin, TX with four regional offices and 12 offices within the regions. The regional offices are located in Lubbock, Dallas, Houston and San Antonio. Additional offices are staffed in Odessa, El Paso, Abilene, Amarillo, Fort Worth, Longview, Waco, Galveston, Beaumont, Corpus Christi, McAllen and Austin.

REGION	OFFICE	No. Personnel
Lubbock	Lubbock	2

REGION	OFFICE	No. Personnel
Houston	Houston	7 (1-vacant)

	Odessa	1
	Abilene	1-vacant
	Amarillo	1
	El Paso	1
Dallas	Dallas	6
	Fort Worth	2
	Longview	2
	Waco	1
	Galveston	1
	Beaumont	1
San Antonio	San Antonio	4
	Corpus Christi	1
	McAllen	1
	Austin	1

The **credit law daily steps** for processing is as follows:

Delivery Period 01-15(a)

Delivery Period 16-31(b)

- Payment to wholesalers due by  
25<sup>th</sup> of each month (a)  
10<sup>th</sup> of each month (b)
- Notice of defaults postmarked no later than 2 days  
27<sup>th</sup> of each month (a)  
12<sup>th</sup> of each month (b)
- Receive and alphabetize defaults  
27<sup>th</sup> through 31<sup>st</sup> of each month (a)  
12<sup>th</sup> through 16<sup>th</sup> of each month (b)
- Receive and match Notice of Payments with Notice of Defaults  
29<sup>th</sup> through 31<sup>st</sup> of each month (a)  
14<sup>th</sup> through 16<sup>th</sup> of each month (b)
- Enter dollar amount from Notice of Defaults  
2<sup>nd</sup> of each month (a)  
17<sup>th</sup> of each month (b)
- Enter wholesaler/delivery date from Notice of Defaults  
3<sup>rd</sup> of each month (a)  
18<sup>th</sup> of each month (b)
- Match Notice of Payments with Notice of Defaults. Delete Notice of Payments  
By end of 3<sup>rd</sup> day of each month (a)  
By end of 18<sup>th</sup> day of each month (b)

- Order and check dummy delinquent list - a.m.  
Order and check related delinquent list - p.m.  
Order delinquent list - p.m.  
4<sup>th</sup> day of each month (a)  
19<sup>th</sup> day of each month (b)
- Mail delinquent list  
5<sup>th</sup> day of each month (a)  
20<sup>th</sup> day of each month (b)

Field compliance officers conduct investigations and settle cases against violators of the credit law.

**Excise tax reports** are due on the 15<sup>th</sup> of every month. Each report is logged in as being received. If taxes are due then the payment is verified received with the Fiscal Services Department records. All reports and invoices are cross-checked with applicable nonresident sellers, carriers, and wholesalers/distributors. During this period the regulatory function of verifying, through label approval records, that no illegal beverages are entering the market is conducted. Carrier reports and invoices supplied by Texas wholesalers/distributors are reviewed to make sure no unlicensed companies are sending illicit beverages into the state.

When excise tax section personnel note that illegal beverages have been imported, a compliance officer or enforcement agent is sent to the wholesaler/distributor to investigate. Any illegal products found are seized and corrective actions against the imported and supplier are initialized.

**New schools** submit applications for approval of the school administration, for the approval of the curriculum of their proposed presentations, and for the approval of their trainers. This process usually takes one to two months and results in a three-year certification. Each of these certifications must be renewed every three years. The school/program original certification costs \$1,000.00 and renewals cost \$500.00. Each trainer certification costs \$50.00. The first approval of a trainer requires that they make a passing grade of 80% on a test administered by a TABC compliance officer.

Schedules for classes are received daily. The scheduling of every class must be done at least three days prior to the class date. The report of completed classes and the certified trainees are received daily. Every school must submit these reports within thirty days of the class date. If a class does not take place the school must submit a cancellation notice.

Field compliance officers monitor school classes. Classes are monitored in an open capacity and also in an undercover capacity depending on the need. School record inspections are also conducted to verify the accuracy and content of the school's records.

Specific investigations, summary suspensions, audits or reviews are assigned out of the headquarters' office. Inspections and marketing practice reviews are assigned from the field office.

**G. If the program or functions works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency.**

N/A

**H. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

Sources of Funding for FY 2002:

- General Revenue \$2,350,542.00
- Appropriated Receipts \$1,563.00

**I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.**

The seller/server function has had 3 FTE since its inception in 1987. The number of seller/servers being trained annually has increased from 58,256 in 1990 to 169,538 in 2002, a 292 percent increase. (The active number of servers to be maintained is 339,076 as a certificate is good for 2 years.) There is a significant need for one additional FTE for data entry and one FTE as a professional trainer to provide technical skills to schools and trainers to improve curriculum presentation. The commission requested additional funding for these two position during the last two legislative sessions and was unsuccessful.

**J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.**

None

**K. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

N/A

**L. Please provide any additional information needed to gain a preliminary understanding of the program or function.**

The field compliance officers' primary purpose is to monitor the alcoholic beverage industry to ensure adherence to regulatory provisions of the Alcoholic Beverage Code and rules.

The department collects the tax imposed on the "first sale" of alcoholic beverages by authorized licensees and permittees. This tax is generally paid at the Wholesale/Distributor level. Monthly tax reports are filed on the 15<sup>th</sup> of each month following the month for which the report is made. The reports show liquor/beer that is received and disposed of during the month. All entries and amounts subject to tax are verified for completeness and accuracy. The initial review of reports includes looking for illegal imports of illicit beverages and receipt of merchandise from non-licensed suppliers.

Field compliance officers routinely conduct audits on Texas excise tax accounts. These audits provide additional regulatory functions such as verifying all aspects of the excise account's responsibilities in keeping proper records to account for their operations. These audits include investigations into cash/credit law violations, illegal consignment agreements, illicit beverage purchases and sales, and reviews of marketing practices materials and campaigns.

The seller/server program is meant to modify the seller/server's perception of their responsibility to their employer and to the general public. The selling of alcoholic beverages to minors and intoxicated persons is a major concern to the public and law enforcement agencies. Texas has one of the highest percentages of DWI death. If sellers/servers' sentiment about selling to minors and intoxicated persons can be modified by promoting responsible alcoholic beverage service, it is believed that the tragedy of DWI deaths and other social costs can be minimized.

**M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:**

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

Why the regulation is needed and the scope of, and procedures for, inspections or audits of regulated entities.

Regulation is needed to ensure adherence to requirements/restrictions of the Alcoholic Beverage Code and rules. Field compliance officers conduct **new location inspections** prior to the issuance of a permit or license to determine if the proposed location meets requirements as set out in the code. **Routine inspections** are also conducted on licensed premises for a more limited review of an entity's business operations. **Private club analyses** are conducted to ensure proper payment of permit fees and review of the membership records as outlined in Section 32 of the code and rules 41.28, 41.51 and 41.52. Beer distributors report **cash law** violations to our field personnel submitting an affidavit stating non-payment of product. The compliance officer's duty is to contact the permittee informing them of the affidavit. The compliance officer will meet with the licensee/permittee to attempt to settle the violation. Routine **food and beverage** analyses are performed to ensure the business is primarily a restaurant, is maintaining the 50% food to alcohol ratio and books are maintained as required by rule 33.5. The Comptroller of Public Accounts notifies department personnel when accounts are excessively delinquent in their payment of the state's Mixed Beverage Gross Receipts Tax. Administrative orders are prepared on these accounts and compliance officers serve the orders of **summary suspension**. Compliance officers monitor **seller/server** training schools to determine if they are presenting their approved programs and that no required information is omitted from the classroom presentations. Additionally, a complaint on a school or trainer may be received that requires the monitoring to be conducted in an undercover capacity. **Investigations** are also conducted primarily as requests from the Licensing Department to conduct subterfuge investigations. It is also the compliance officer's duty to maintain the custody and records for confiscated property. The compliance officers also maintain inventory records for capital equipment in the district offices. These compliance functions are conducted in accordance with the Compliance Departments Procedures, Alcoholic Beverage Code and rule requirements. **Audits** of the wholesale tier level are conducted, as outlined in the Compliance Department's Audit Procedures Manual, to determine if the following requirements are being met: **marketing practices**, cash/credit law, purchases and inventory, exemption records and other general regulatory violations, in addition to ensuring proper reporting of product and payment of excise taxes.

Regulation of the credit law restrictions are necessary in order to verify that wholesalers and retailers are following the statutory and rule requirements and provide them with the means to do so. During the course of excise tax audits on the wholesale accounts, compliance officers review the wholesalers' compliance with the requirements of credit law. There are four objectives when examining the wholesalers' records:

1. The wholesaler is not selling liquor to retailers who are on the delinquent list.
2. The wholesaler is properly and timely reporting all retailer late payments.
3. The wholesaler is properly and timely reporting all insufficient checks that were submitted as payment (to possibly evade being placed on delinquent list).
4. The wholesaler is accepting the proper form of payment (i.e. no firm or personal checks) for

delinquent payments and is timely releasing retailers who have paid from the list.

Regulations for licensees and permittees authorized to manufacture, import, export, transport, store and distribute alcoholic beverages are needed to ensure taxes are timely paid, products have label approval, and products are distributed through the three-tier system. The excise tax reports are reviewed for completeness and accuracy. Correspondence is generated for discrepancies in taxes due or other information that cannot be verified. Permittees are subject to administrative fines and penalties for non-compliance such as failure to timely file monthly reports, non-payment of tax delinquencies, purchasing from unauthorized sources, and distributing illicit beverages. The review of reports includes the inspection for illicit beverages being imported into the state of Texas. The number of new alcoholic beverage products for marketing purposes is always increasing. All alcoholic beverages products must obtain label approval before being legally imported into the state. The review of the excise tax reports and invoices is an integral step in catching any attempt to import and sell illicit beverages in the state.

Regulation of the seller/server training function is needed to insure the quality of the schools, their curriculum, and the instructors remains high and that the integrity of the program is not jeopardized. Field compliance officers monitor schools in several different ways by field compliance officers. One method of monitoring is in an open capacity. The compliance officer identifies himself at the beginning of the class to the instructor. The quality of the instructor's presentation and content of curriculum presented are evaluated. The compliance officer can also monitor the class in an undercover capacity. This method of monitoring requires that the compliance officer register and pay for the class just as a normal student would. The entire class is completed and the final test is taken. Sometimes the final test is purposely failed to determine the instructor's response. This type of monitoring is usually considered when a complaint about violations is received concerning a school or instructor. Finally, a record inspection can be conducted. This includes reviewing all paperwork that a school is required to maintain for the documentation of classes.

**Follow-up activities conducted when non-compliance is identified.**

Follow-up activities will depend on the nature of the violations found. For example, a follow-up inspection will be conducted in 60 days to verify that the corrections have been made. Meanwhile, if minor books and records are noted, a follow-up inspection may not be conducted.

**Sanctions available to the agency to ensure compliance.**

When violations are noted, the Standard Penalty Chart Rule, Rule 37.60, is consulted to determine the appropriate administrative action. The recommended sanction ranges from a warning, suspension or cancellation of the permit or license. In lieu of a number of days of suspension, civil penalties are available as an alternative in most cases.

Procedures for handling consumer/public complaints against regulated entities.

The nature of the complaint will determine the handling of the inspection/audit/analyses.

**N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.**

Complaints are maintained by the Enforcement Division.

<b>Texas Alcoholic Beverage Commission (Regulatory Program Name)</b>		
<b>Exhibit 15: Complaints Against Regulated Entities or Persons – Fiscal Years 2001 and 2002</b>		
	<b>FY 2001</b>	<b>FY 2002</b>
<b>Number of complaints received</b>		
<b>Number of complaints resolved</b>		
<b>Number of complaints dropped/found to be without merit</b>		
<b>Number of sanctions</b>		
<b>Number of complaints pending from prior years</b>		
<b>Average time period for resolution of a complaint</b>		
<b>Number of entities inspected or audited by the agency</b>		
<b>Total number of entities or persons regulated by the agency</b>		

**A. Please complete the following chart.**

<b>Texas Alcoholic Beverage Commission Exhibit 14: Program or Function Information — Fiscal Year 2002</b>	
<b>Name of Program or Function</b>	Ports of Entry
<b>Location/Division</b>	Compliance Department/Regulatory Division
<b>Contact Name</b>	Buck Fuller
<b>Number of Budgeted FTEs, FY 2002</b>	103
<b>Number of Actual FTEs as of August 31, 2002</b>	95

**B. What are the key services of this function or program? Describe the major activities involved in providing all services.**

Personnel of the Ports of Entry Program monitor compliance with the personal importation laws of the State of Texas along the Texas/Mexico border and are stationed at all major bridges. Taxpayer compliance officers verify that persons importing alcoholic beverages meet all legal requirements regarding importation for personal consumption and collect the appropriate fees and taxes due.

Through an agreement with the Comptroller of Public Accounts, Ports of Entry personnel are also responsible for determining compliance with the state laws governing the personal importation of cigarettes along with the collection of any state taxes due on these importations.

**C. When and for what purpose was the program or function created? Describe any statutory or other requirements for this program or function.**

The Ports of Entry Program has been in place since the early days following the repeal of prohibition and serves two distinct purposes. First, it provides for the collection of state excise taxes on any alcoholic beverages entering into the state of Mexico. Since federal law allows importation without payment of federal excise taxes, alcoholic beverages may be cheaper when purchased in a foreign market. The collection of the tax and the imposition of an importation limit of one (1) quart of distilled spirits, one (1) case of beer, and three (3) gallons of wine in any thirty (30) day period, not only provides over \$3 million in revenues per year but results in confiscation of alcoholic beverages or cigarettes from minors or intoxicated persons. Second, it protects the licensed Texas trade from the undue harm of an inflow of unreasonably inexpensive products, either being brought in for personal consumption or illegally bootlegged in to the state to enter into the commercial trade without normal taxes paid or through the mandated chain of commerce. The ports personnel also affix tax stamps to cartons of cigarettes imported from Mexico.

Key statutory or other requirements are found in the: **Texas Alcoholic Beverage Code under:**  
Sec. 106.08 - Importation By A Minor,  
Sec. 107.07 - Importation For Personal Use,  
Sec. 107.11 - Importation Of Personal Wine Collection,  
Sec. 206.03 - Importation Without Tax Stamp.

**Vernon's Tax Code under:**

SUBCHAPTER B. IMPOSITION AND RATE OF TAX  
154.021 - Imposition and Rate of Tax,  
154.024 - Importation of Small Quantities

## SUBCHAPTER C. TAX STAMPS

### 154.041 - Stamp Required

**D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program or function will no longer be needed?**

Following the repeal of prohibition, the Ports of Entry Program was instituted to serve two distinct purposes:

- (1) To collect taxes and fees due to the state;
- (2) to limit the amount of alcoholic beverages imported into the state; and
- (3) protection of retail market from influx of untaxed and/or unapproved product from outside the state or country.

The original intent of this program has changed somewhat in that in addition to the primary functions, port personnel also do not allow persons under the legal drinking age to import alcoholic beverages and cigarettes. Personnel will request identification from young appearing individuals to determine if they are of age to import these products. In addition, ports' personnel will also not allow intoxicated individuals to import alcoholic beverages. While port personnel cannot conduct searches or make arrests, they do have the ability to confiscate product in these two instances.

**E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.**

This program affects the retail industry of this state. If importations of alcoholic beverages were not monitored, the unfair competition could result with untaxed product not purchased in the normal change of distribution. Health and safety of the people of the state is affected if minors or intoxicated people are allowed unrestricted importation of alcoholic beverages.

**F. Describe how the program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe the agency policies and procedures. List any field or regional services.**

The Ports of Entry Program's central operation is headquartered in Austin, with six major offices along the Texas/Mexico border: El Paso, Eagle Pass, Laredo, Hidalgo, Progreso, and Brownsville. Each of the major bridges has several ports assigned to their prospective area as outlined below:

PORT	BRIDGE NAME	MANNED
El Paso	PDN - Paso Del Norte Int'l Bridge	Manned
	BOTA - Bridge of the Americas (Cordova)	Manned
	Ysleta/Zaragoza	Manned
	Stanton Street Bridge (DCL)	Unmanned
	Fabens	Manned
	Ft. Hancock	Unmanned
	Presidio	Manned
Eagle Pass	Amistad Dam	Spot Check
	Del Rio Int'l Bridge	Manned
	Eagle Pass Int'l Bridge I	Manned
	Eagle Pass Bridge II	Manned
Laredo	Columbia (Laredo III)	Spot Check
	Laredo IV (World Trade Bridge) Commercial Traffic only	Unmanned
	Gateway (Bridge I)	Manned
	Lincoln/Juarez (Bridge II)	Manned

PORT	BRIDGE NAME	MANNED
Hidalgo	Falcon Dam	Unmanned
	Roma Int'l Bridge	Manned
	Rio Grande City	Manned
	Los Ebanos Ferry	Unmanned
	Anzalduas*	Proposed
	Hidalgo Int'l Bridge	Manned
	Pharr	Manned
Progreso	Donna*	Proposed
	Progreso Int'l Bridge	Manned
	Los Indios	Manned
Brownsville	Gateway Bridge	Manned
	B & M R.R.	M
	Veterans Int'l Bridge (Los Tomates)	Manned

\* Anzalduas proposed opening date 2005

\* Donna proposed opening date 2005

<< La Linda Bridge in Brewster County is permanently closed >>

The Ports of Entry Program strategically places its personnel along the Texas/Mexico border to maximize revenue collection while enforcing the regulatory laws pertaining to importations as outlined in the Texas Alcoholic Beverage Code.

**G. If the program or functions works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency.**

The Texas Alcoholic Beverage Commission Ports of Entry is the sole state agency positioned on the international bridges. Other federal agencies that operate on the bridge are: Bureau of Immigration and Customs Enforcement, Immigration and Naturalization Service (INS) and U.S. Department of Agriculture (USDA), US Department of Transportation (USDOT), Federal Protective Services (FPS), and General Services Administration (GSA).

On March 1, 2002 many government agencies were reorganized to create a single federal agency: the

Department of Homeland Security (DHS). Within the DHS, the Bureau of Customs and Border Protection (CBP) has been formed, which has incorporated the U.S. Customs Service (USCS), Immigration and Naturalization Service (INS) and U.S. Department of Agriculture (USDA) as one agency.

When an international bridge crossing is scheduled to open or to be remodeled, many other agencies are directly involved in the decision making process. Some of the other agencies may include: city officials (where the bridge is located), the local area chamber of commerce, Texas Department of Transportation (TxDOT), various environmental groups, engineering firms who directly plan, design, and build the new or remodeled facilities.

In addition to all agencies listed above, federal and local agencies from Mexico are also consulted to provide direction and insight to the decision making process at the international bridge crossings. The main agency involved is the Aduana México. This is an entity of the Mexican federal government directly overseeing importations and exportation for the country of Mexico.

All of the above agencies provide an intricate part to the everyday operation of an international bridge crossing.

**H. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

FY 2002

General Revenue \$ 2,623,069

Rider 11 Contingency Appropriation for Bridges \$508,518

Rev Collected:	\$2,191,770 (alcoholic beverages)
	\$1,220,242 (cigarettes)
Grand Total	\$3,412,012

**I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.**

Yes, current funding is appropriate. The concern remains with the future funding of new bridges. In the past five years, there have been four remodels of existing bridges and two new bridge openings, with 2 new international bridge crossings currently in the design phase due to come on-line in 2005. The agency has no decision making power in these instances, but must be prepared to pay for increased rent of constructing state owned facilities.

It is important that the State Legislature continue to fund new bridges as they come on-line. Often times a major change in a traffic pattern may occur, which the Ports of Entry Program must respond to

accommodate the citizens of Texas and facilitate the revenue collection process at these new bridges.

September 11 has had a significant impact on the international bridges. Heightened security has been given the highest priority which has caused the federal government to re-strategize and reroute traffic, to which our POE program has had to adapt.

**J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.**

None

**K. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

No

**L. Please provide any additional information needed to gain a preliminary understanding of the program or function.**

N/A

**M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:**

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

N/A

**N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.**

N/A

<b>Texas Alcoholic Beverage Commission</b> <b>(Regulatory Program Name)</b> <b>Exhibit 15: Complaints Against Regulated Entities or Persons – Fiscal Years 2001 and 2002</b>		
	<b>FY 2001</b>	<b>FY 2002</b>
<b>Number of complaints received</b>		
<b>Number of complaints resolved</b>		
<b>Number of complaints dropped/found to be without merit</b>		
<b>Number of sanctions</b>		
<b>Number of complaints pending from prior years</b>		
<b>Average time period for resolution of a complaint</b>		
<b>Number of entities inspected or audited by the agency</b>		
<b>Total number of entities or persons regulated by the agency</b>		

**A. Please complete the following chart.**

<b>Texas Alcoholic Beverage Commission</b> <b>Exhibit 14: Program or Function Information — Fiscal Year 2002</b>	
<b>Name of Program or Function</b>	Legal Department
<b>Location/Division</b>	Headquarters/Executive Division
<b>Contact Name</b>	Gayle Gordon
<b>Number of Budgeted FTEs, FY 2002</b>	7 3/4
<b>Number of Actual FTEs as of August 31, 2002</b>	7 3/4

**B. What are the key services of this function or program? Describe the major activities involved in providing all services.**

The Legal Department prosecutes all administrative cases brought by the Texas Alcoholic Beverage Commission. In addition, at the request of the cities and counties of the State of Texas, the department is charged with bringing actions for the cancellation of permits or licenses of holders who fail to pay an

alcoholic beverage local fee or any ad valorem tax related to their premises. The Department performs the same function for the State Comptroller's Office when a licensee or permittee is indebted to the State.

It is the responsibility of the Legal Department to respond to questions from the agency, general public, permittees, licensees, county judges and other governmental agencies regarding the code and the manner in which it should be applied in particular situations.

**C. When and for what purpose was the program or function created? Describe any statutory or other requirements for this program or function.**

Section 5.15 of the Alcoholic Beverage Code provides for the legal representation of the commission in the prosecution of all suits which it may choose to institute and the defense of suits brought against it in order to fulfill its mission of achieving code compliance by permittees and licensees. Currently, the prosecution of administrative cases before the State Office of Administrative Hearings is performed by agency staff, while appeal of such cases and other suits are handled by the Attorney General's Office.

**D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program or function will no longer be needed?**

As the law has expanded the mission of the Commission, the number and the complexity of cases have increased. This is an ongoing program.

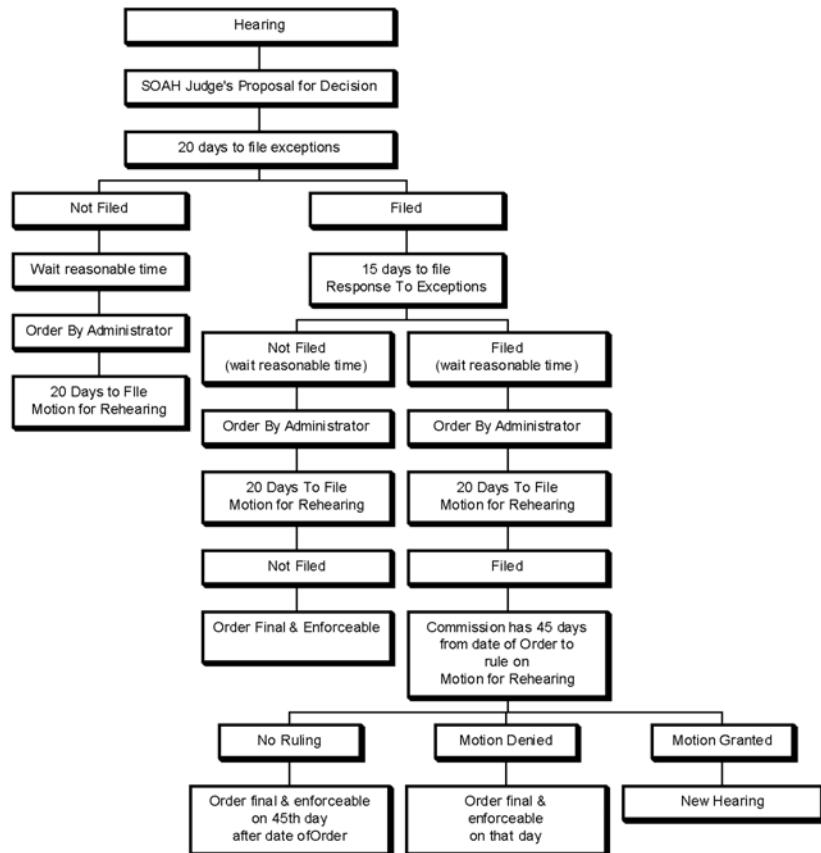
**E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.**

This program potentially affects any entity licensed or permitted under the Alcoholic Beverage Code, as well as the public and the employees of the commission.

**F. Describe how the program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe the agency policies and procedures. List any field or regional services.**

Please see following chart:

## Administrative Hearing Process



**G. If the program or functions works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency.**

The legal department works with and prosecutes for county judges, county and city tax offices, county clerks and the state comptroller's office.

**H. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

Funding for FY 2002:

General Revenue \$589,465

**I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.**

Funding is adequate to provide required services but more funding may be needed along with the implementation of new technology to improve the quality of service to the public and to permittees and licensees.

**J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.**

District and county attorneys throughout the state prosecute the criminal counterparts of administrative cases brought by the commission. The fact issues are similar, the burden of proof and the controlling law are, of course, different.

**K. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

N/A

**L. Please provide any additional information needed to gain a preliminary understanding of the program or function.**

N/A

**M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:**

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

N/A

**N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.**

<b>Texas Alcoholic Beverage Commission Legal Department Exhibit 15: Complaints Against Regulated Entities or Persons – Fiscal Years 2001 and 2002</b>		
	<b>FY 2001</b>	<b>FY 2002</b>
Number of cases docketed (Does not reflect an estimated 300 to 400 cases annually which are handled for cities and counties of Texas and resolved prior to docketing)	1081	1175
Number of cases resolved	1093	1132
Number of sanctions	675	670
Number of hearings held	214	222
Number of complaints pending at fiscal year end	524	566

**A. Please complete the following chart.**

<b>Texas Alcoholic Beverage Commission Exhibit 14: Program or Function Information — Fiscal Year 2002</b>	
<b>Name of Program or Function</b>	<b>Grants and Planning Section</b>
<b>Location/Division</b>	<b>Resource Management Division (RMD)</b>
<b>Contact Name</b>	<b>Andrea Luna</b>
<b>Number of Budgeted FTEs, FY 2002</b>	<b>0 grant-funded employees; 1.5 agency-funded employees</b>
<b>Number of Actual FTEs as of August 31, 2002</b>	<b>0 grant-funded; 1.5 agency-funded</b>

**B. What are the key services of this function or program? Describe the major activities involved in providing all services.**

The Grants and Planning Section (hereafter referred to as “the section”) seeks funding opportunities for new programs and administers current programs supported by both state and federal grant funds awarded to the agency. Major activities involved in providing these services include:

1. Identifying agency program or project needs (through meetings, data analysis, site visits/observational analysis, and /or planning activities).
2. Identifying appropriate funding sources and developing, writing, and submitting grant applications, including budgets and program proposals.
3. Ensuring agency compliance and/or ability to comply with federal and state funding guidelines.
4. Complying with federal and state programmatic guidelines, including progress reports, disclosures, grant adjustments, etc.
5. Writing and/or coordinating grant policies and procedures for the section and those involved in projects supported by grant funding.
6. Maintaining the section web page and providing public information and/or press releases on grant funding opportunities, awards and providing information on programs/projects to agency personnel and others involved in TABC grant programs.
7. Implementing the programmatic requirements of grant-funded projects, including:
  - a. scheduling, planning, and holding meetings, conferences, and training
  - b. maintaining correspondence with other professionals in related agencies
  - c. overseeing employees working on funded projects
  - d. developing public information materials, flyers, brochures, etc.
  - e. coordinating work for and overseeing consultants or temporary personnel hired to complete specialized activities
  - f. attending conferences, meetings, and public interviews regarding grant-funded programs and activities

- g. implementing a federal pass-through program including:
  - i. developing and soliciting a competitive request for application
  - ii. reviewing, awarding funds
  - iii. writing, reviewing, negotiating contracts
  - iv. monitoring contract compliance
  - v. providing technical assistance to grantees as needed
  - vi. assessing the impact of grantee programs
8. Evaluating effectiveness of current programs and identifying ways to improve programs and/or evaluating the future need for the program.

**C. When and for what purpose was the program or function created? Describe any statutory or other requirements for this program or function.**

This program was initiated in the early 1990's in a very limited capacity. Each year, the program has been developed and refined, resulting in the current form. The purpose of this program is to seek funding for programs, activities, training, and equipment that support and supplement the activities and functions for which the state appropriates agency funds.

Grants allow TABC to purchase new equipment, offer mini-grants to schools for educational programs, enable participation in additional enforcement and other investigative activities, and provide for the creation of new employment positions that would otherwise not be funded.

The TABC has been applying for, receiving, and implementing grants for many years. Prior to creating this section, most grants received were enforcement-related - written and managed by the Enforcement Division. In 2002 and 2003, the nature of the grants TABC received created the need for this section. At that time, TABC was and had been seeking and receiving grants for activities controlled by other divisions of the agency, including Legal, Licensing, and Information Resource Divisions. Grants were also being received for other, non-enforcement activities and equipment. As grant funding branched out to other TABC divisions, central agency coordination of federal and state grant funds was needed.

Further, the Enforcing Underage Drinking Laws (EUDL) program, authorized by Public Law 107-77, the Appropriations Act for the Departments of Commerce, Justice and State, the Judiciary, and related agencies, provides block grants to states to enforce laws prohibiting the sale of alcoholic beverages to minors and to prevent the purchase or consumption of alcoholic beverages by minors. Only designated state agencies appointed by the Governor are eligible to apply for the EUDL Block Grant program.

In 2001, the Office of the Governor appointed the Texas Alcoholic Beverage Commission (TABC) to administer the use of these funds. The TABC, in coordination with the Office of the Governor and other state agencies, agreed to create a state plan for using these funds and to continue to award pass-through funding to state and local entities to implement various education and enforcement programs throughout the state. The continuation of pass-through funding to other state and local entities required the development of a federal pass-through funding system—outside of the scope of just the Enforcement

Division.

The administration of pass-through grant funds and the rules for administering EUDL funds were adopted by the commissioners in November 2002 and can be found in Chapter 32 of the TABC rules (16 TAC Chapter 32, Subchapter D).

**D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program or function will no longer be needed?**

The type and amount of federal and state grant-funds available for alcohol education, prevention, and law enforcement will change according to the political and economic environment, but the potential for grant-funding, in general, will not disappear. This section is continually completing old programs and receiving funding for new programs, so it is unlikely the mission will be accomplished unless TABC does not receive or apply for any additional grant funds.

**E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.**

The programs administered by this section impact youth, parents, alcohol retailers, and other members of the public statewide. Populations targeted for enforcement include youth (under age 21) who seek to purchase alcoholic beverages or consume them illegally and retailers or adults (21 or older) who provide or sell alcohol illegally to minors, and anyone or entity legally or illegally involved in the alcoholic beverage industry.

**F. Describe how the program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe the agency policies and procedures. List any field or regional services.**

**State and Federal Funding Applications**

Initially, the grants process begins by identifying a program need and suitable funding source. State funding solicitations are usually released in late November/early December, with due dates ranging from January to March of the following year. Federal funding solicitations are released throughout the year, but typical solicitations for TABC funding sources are released in March with due dates in April and May. Identifying program needs and planning for programs takes place year-round.

**State Grant Management**

At intervals determined by the grantor agency, TABC reports on the programmatic and financial status of awarded grants. For grants awarded by the Office of the Governor, reports are due to be submitted semi-annually to Texas A&M University. Financial reports are submitted directly to the Governor's Office as needed. For Texas Department of Transportation (TxDOT) grants, progress and financial reports are submitted monthly directly to the agency. Due dates for state reports are based on the start date of the grant.

**Federal Grant Management**

TABC only receives federal Department of Justice (DOJ) funding. For these programs, financial reports are due at quarterly intervals and program progress reports are due semi-annually, using the calendar year.

**Pass-Through Funding**

TABC releases solicitations for EUDL applications in mid-November. Applicant information sessions are held in December and January in various regions of the state. Due dates to receive applications are in February. TABC reviews applications February-March and awards grant funding in late March/early April. Pass-through funding programs begin May 1. Grantees are required to submit quarterly progress reports and financial reimbursement requests in August, November, February and May. \*Pass-through funding, depending on the county and agency awarded, will provide services to various regions of the state and/or services statewide.

**G. If the program or functions works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency.**

The EUDL grant is subject to Executive Order 12372 "Intergovernmental Review of Federal Programs." TABC submits all applications for this funding to State Single Point of Contact (SPOC) and follows all guidelines set by this contact for applying for assistance. Generally, copies of the funding request are sent to all affected Councils of Governments (COGs). COGs review the program and issue letters of support or letters denying support for the funding request to the applicant agency and to the agency from which funding is requested. TABC responds to all requests to present the funding request to COG hearings to review the funding application.

EUDL funds administered by the section are also subject to Executive Order 12372. Pass-through funding applicants from state and local units of government or other organizations providing services within the state and seeking this funding are required to submit a copy of the application package to the SPOC. Local units of government applying for EUDL pass-through funding should submit a copy of the application package to their local COG.

COGs are eligible for EUDL pass-through funding and may submit applications to the agency in response to our November solicitation.

**H. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations, rider, budget strategy, fees/dues).**

	<u>2002 Grant-Funded Programs</u>			
	<u>Federal Funds</u>	<u>State Funds</u>	<u>Total</u>	
<i>Office of the Comptroller</i>				
1. State Energy Conservation Office	\$ 80,886.00	\$ -	\$ 80,886.00	
<b>Total</b>				
	\$ 80,886.00	\$ -	\$ 80,886.00	
<i>Office of the Governor</i>				
1. Spring Break/Mardi Gras 2002	\$ 140,631.00	\$ 16,181.00	\$ 156,812.00	
2. Repeat Offender Retailer Education	\$ 68,400.00	\$ 32,626.00	\$ 101,026.00	
<b>Total</b>				
	\$ 209,031.00	\$ 48,807.00	\$ 257,838.00	
<i>Texas Department of Transportation</i>				
1. On-Premises Minor Stings	\$ 171,378.00	\$ 65,763.00	\$ 237,141.00	
2. Project SAVE	\$ 79,950.00	\$ 155,043.00	\$ 234,993.00	
3. Shattered Dreams Mini-Grant	\$ 53,250.00	\$ 35,980.00	\$ 89,230.00	
4. Youth Power Camps	\$ 25,350.00	\$ 54,428.00	\$ 79,778.00	
<b>Total</b>				
	\$ 329,928.00	\$ 311,214.00	\$ 641,142.00	
<i>Office of Juvenile Justice and Delinquency Prevention</i>				
1. FY 2001 Enforcing the Underage Drinking Laws Program	\$ 359,208.00	\$ 28,800.00	\$ 388,008.00	
2. FY 2002 Enforcing the Underage Drinking Laws Program	\$ 360,000.00	\$ -	\$ 360,000.00	
<b>Total</b>				
	\$ 719,208.00	\$ 28,800.00	\$ 748,008.00	
<b>Grand Total</b>				
	\$ 1,339,053.00	\$ 388,821.00	\$ 1,727,874.00	

**I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.**

Currently, individual funding awards are larger than previous awards, but there are not as many as in previous years. Funding is appropriate to achieve the goals of the project awards, but some previously funded programs have been abandoned because of changes in funding agency priorities and/or the amount of funds available for award. Further, more program evaluation and data collection is needed to justify the programs that are not currently funded to funding agencies to prove the need for the program and effectiveness in achieving goals.

**J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.**

There are no programs within the agency that provide these services.

Many state agencies receive grant funding and pass-through funding from federal and state sources for alcohol-related enforcement programs. For example, the Office of the Governor receives and awards Juvenile Justice and Delinquency Prevention (JJDP) funds, Juvenile Accountability Incentive Block Grants (JAIBG), and Edward Byrne Memorial funds from the DOJ. These grants are similar in that they may all be awarded for law enforcement and the juvenile grants may fund underage drinking prevention, but their scope also includes other types of law enforcement and delinquency issues.

TxDOT, through funding from the Department of Transportation (DOT), receives funds to award for drinking and driving prevention, education, and enforcement. These grants may also involve underage drinking enforcement.

Various other state agencies receive and award federal funds to achieve goals specific to their agencies functions. Various other state agencies also receive and participate in programs funded by federal and state grant funds. Specific to our agency, TABC is the only agency that awards pass-through funds specifically—and only—for the enforcement of underage drinking laws.

**K. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

**Intergovernmental Review of Federal Programs**

The section participates in the “Intergovernmental Review of Federal Programs” function, where we review federal and state funding proposals from state agencies and non-profit organizations that will impact alcohol prevention, education, and enforcement statewide. The section issues letters of support or letters of denied support based on whether there is a need for the program and whether there is any duplication of service with other state agencies or non-profit organizations.

**Peer Review**

The section participates in grant peer review in the award process of alcohol-related prevention, education and enforcement grants offered by other state agencies (and for which TABC did not submit an application.)

TABC also holds a peer review session for EUDL pass-through funding applications, where representatives from other state agencies and non-profit agencies (that did not submit applications) will review our applicants for program need and to determine if any services have been duplicated.

**Underage Drinking and Alcohol Enforcement Meetings**

Periodically, representatives from alcohol prevention, education, and enforcement agencies and statewide organizations will meet to discuss areas that need funding and programs or initiatives that are currently under-funded. The section uses information from these meetings to direct our pass-through funding priorities.

**L. Please provide any additional information needed to gain a preliminary understanding of the program or function.**

N/A

**M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:**

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

N/A

N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.

Complaints are maintained by the Enforcement Division.

<b>Texas Alcoholic Beverage Commission (Regulatory Program Name)</b>		
<b>Exhibit 15: Complaints <u>Against</u> Regulated Entities or Persons – Fiscal Years 2001 and 2002</b>		
	<b>FY 2001</b>	<b>FY 2002</b>
Number of complaints received		
Number of complaints resolved		
Number of complaints dropped/found to be without merit		
Number of sanctions		
Number of complaints pending from prior years		
Average time period for resolution of a complaint		
Number of entities inspected or audited by the agency		
Total number of entities or persons regulated by the agency		

## VII. Agency Performance Evaluation

### A. What are the agency's most significant accomplishments?

The scope of TABC's responsibilities provide the agency a large stage on which to act and many opportunities for possible achievement.

Among the accomplishments the agency wishes to report are:

- Continued increases in retailer compliance as measured by minor stings. While the compliance rate was as low as 20% in some areas during the early days of the minor sting program, today, when tested 80% of all retailers elect to obey the law and refuse to make illegal sales to minors.
- Greater leveraging of law enforcement resources. In recent years, the TABC has become increasingly adept at multiplying the possible impact of its enforcement agents by convincing local law enforcement of the link between alcohol violations and local public safety issues and then by using concern over those issues to convince local law enforcement agencies to join the TABC in a sustained, cooperative effort to attack the alcohol violations that are their underlying cause.
- Expanded and better coordinated public dissemination of prevention and voluntary compliance messages through partnerships with industry groups, prevention-oriented non-profits, and other state agencies. Although trying to bring diverse, sometimes antagonistic groups together and getting them to come to agreement on joint public information campaigns can be somewhat challenging, the TABC has learned that such ventures are "doable" and provide an excellent mechanism for leveraging public information dollars and for ensuring an ongoing cycle of coordinated public information.
- Creation of the Alliance Against Underage Drinking and the 2young2drink.com website in conjunction with the Texas Commission on Alcohol and Drug Abuse and other governmental and private groups. The Alliance and its web site were established by TCADA, TABC and their partners to provide a mechanism for coordinating public information activities and a one-stop source of information and materials for parents and community organizations concerned with the underage drinking issue.
- Improved public access to information and customer access to agency forms, reports and applications due to major enhancements made to the agency's public website.
- Stemming the high turnover rate previously experienced by the agency's Licensing Department, thereby ending a chronic backlog of pending renewal applications and making possible the issuance

of a record number of licenses and permits (100,748 issued in FY 2002 alone).

- Supported and encouraged voluntary compliance on the part of the alcoholic beverage industry by providing new educational programs for the industry's retail and wholesale tiers that address everyday problems and issues.
- Strengthen the agency's seller/server certification program by revising the administrative rules governing that program. As a result of these changes rules now require testing and continuing education for trainers, provide progressive penalties with respect to certification for servers and sellers who violate the law, and contain a standard penalty chart for administrative violations by program participating, trainers, and training entities.
- Expanded access to the seller/server certification program by encouraging, facilitating and approving Spanish language and internet-based courses.
- Received consistently high marks on customer satisfaction surveys periodically conducted by the agency to gauge customer perceptions concerning the agency's licensing, compliance and enforcement programs.
- Worked with parties interested in issues related to Fetal Alcohol Syndrome to develop materials and posters that were made available to alcoholic beverage retailers.
- Experienced great success in acquiring grant funds to support agency underage drinking initiatives.
- Designated by the Office of the Governor as the administrator and the single-point-of-contact for federal "Enforcing Underage Drinking Laws" grant funds in Texas. The agency is currently in the middle of its first grant cycle and is overseeing the activities of nine sub-grantees.
- Recognizing that Texas has the dubious distinction of leading the nation in DWI fatalities, the agency has developed and is presently field testing a new program that would reduce the incidence of drunk driving by targeting establishments that sell alcoholic beverages to intoxicated persons or that engage in promotional practices that encourage over-consumption. The agency also established the Enhanced Source Investigations program in areas of the highest DWI fatalities. This program places an agent at the scene of a fatality to immediately begin investigation.
- Achieved success in its efforts to convince the legislature to replace the agency's mainframe computer and legacy data-bases with PC-based client server technology and received funding from the legislature for the first two years of the replacement project.

Internal accomplishments that support employee service delivery or that have lead to an improved or better informed workforce include:

- Redirection of the agency's internal website so that it provides a continual source of new and recurring information to employees at all levels of the agency.
- Completion of a wide-area network that provides all employees, whether in the field or at headquarters, with access to the world wide web, internet e-mail, client server applications, remote printing and file sharing.
- Implementation of internet-based video conferencing in 16 field offices to conduct multi-site administrative hearings, remote training and staff conferences.

**B. Describe the internal process used to evaluate agency performance, including how often performance is formally evaluated and how the resulting information is used by the policymaking body, management, the public, and customers.**

Agency performance is evaluated through monthly reports, management reports, performance measures, customer satisfaction surveys, Survey of Organizational Excellence, internal audits and suggestions, complaints and comments received.

Each department monitors progress and output on a monthly basis. Reports detailing employee, office, district, regional and statewide results are tabulated and forwarded to appropriate supervisors. Monthly information summarizing activity from the field office is also submitted to the headquarters office.

At the end of each quarter, supervisors at all levels assess the year-to-date performance of their units, develop action plans to correct any deficiencies, and then share them with the next level of supervision. Regional supervisors are expected to share their plans with the appropriate supervisor who then reviews the performance of each region or section and plans for corrective action.

Department directors apprise the executive team of the division's progress, problems and plans. The executive team forwards monthly information to the agency's governing body who reviews the information in a public hearing in a monthly meeting.

Additionally, information is reviewed by executive staff above and beyond performance measures and forwards to the governing body monthly information covering a vast array of topics in what is referred to as a fiscal stewardship report. This includes such topics as office space leases, quarterly performance measures, review of legislative caps, workforce summaries, contract workforce, recruitment, contracts, budget, interoperability task force, business recovery plans, grant reviews, property losses, HUB usage, teleconferencing project update, internet usage, fleet management, recycled products and technology progress.

**C. What are the agency's biggest opportunities for improvement?**

The agency's most challenging opportunity is found in the technology area. The 78<sup>th</sup> Legislature was persuaded that the needs of technology advancement were at a level at TABC that justified additional funding to move the agency from the legacy mainframe and applications database to a modern enterprise environment. Additional funding in the 2004-2005 biennium will allow the agency to replace its mainframe computer system and utilize state-of-the-art hardware and software to provide better service to internal and external customers. This transformation will position the agency to take advantage of and offer to agency customers on-line filings, applications, inquiries and a host of internal advances.

The need to devote more time, energy and other resources to law enforcement initiatives that can prevent DWIs will continually face the agency in the near future. Previous research indicates that approximately one-half of all drunk drivers eventually stopped by police officers come from licensed premises. This fact, along with more specific research findings, strongly suggests that some retailers routinely over-serve their customers, fail to stop service after it is or should be obvious that customers are intoxicated, and do not intervene or do not effectively intervene when intoxicated patrons try to drive away from the premises.

The agency has been challenged in the past and continues to be challenged in staying current with methods of operations with and between the upper tiers of the industry to ensure compliance with the Alcoholic Beverage Code. The consolidation of the manufacturing and wholesale levels of the alcoholic beverage industry have resulted in heightened competition between competing interests.

The agency will be faced in the near future with the loss of long-term institutional knowledge. Although the agency has dealt with loss of experienced staff over the years, the recently passed incentive retirement has enticed many employees to retire several years earlier than originally planned. The Alcoholic Beverage Code is a complex document requiring years of experience to appropriately comprehend and apply its more challenging sections, and the agency will be faced with developing processes to ensure knowledgeable leadership and a well informed staff.

**D. How does the agency ensure its functions do not duplicate those of other entities?**

In areas of underage drinking and specific regulation focused on the retail sale of alcoholic beverages, TABC avoids unnecessary duplication of services by law enforcement by working in close cooperation and partnership with other entities. TABC stays apprised of its partners' intentions and is usually able to avoid program conflicts as they occur.

All other areas are not duplicative as no other agency is charged with the regulation of the alcoholic beverage industry. The one exception would be collection of sales tax or gross receipts tax, and there is no overlap of duties in these areas in current statutes.

**E. Are there any other entities that could perform any of the agency's functions?**

Yes. Local police agencies can, to the extent they are inclined to do so and do not have conflicting demands on their resources, engage in the criminal enforcement of the state's alcoholic beverage laws and actively police licensed premises, and a number of external entities can and do provide prevention education programs of young people, regulatory compliance training for alcoholic beverage retailers and their employees.

However, local police agencies have no interest in administrative enforcement or in even the criminal enforcement of provisions of the Alcoholic Beverage Code that have no relationship to public safety. Also, the demands of other priorities severely limit the amount of time and resources that local police agencies can devote to alcohol enforcement.

In addition, because of expertise gained from years of experience, enforcement agents are simply better prepared than any other pool of potential teachers to provide instruction on regulatory or alcohol enforcement topics. They are also better prepared than most to take the lead or to play a major role in organizing and staging relatively large scale and elaborate educational events, such as *Shattered Dreams* presentations that require a lot of coordination and a great deal of inter-agency collaboration.

Other functions of the agency require knowledge and extensive experience of the Alcoholic Beverage Code and, while functions could be split and transferred to other agencies, it would not be efficient or as effective.

One agency eliminates problems of coordination with other agencies, any concern over intergovernmental competition and eliminates confusion of the appropriate entity to whom one takes complaints or concerns. It also streamlines processes for issuance and cancellation of licenses and ensures attention to the core mission.

**F. What process does the agency use to determine customer satisfaction and how does the agency use this information?**

Each month, surveys are mailed or distributed to licensees and permittees inspected by enforcement agents and compliance officers or who received their original permit during the previous month. The survey form asks respondents to answer five general satisfaction questions using a likert-type scale and a limited number of demographic questions. There is also an area for any written comments the respondent wishes to share.

When they have completed the questionnaire, respondents fold the survey instrument as directed, tape its loose ends together, and drop it in the outgoing mail. A business response return form is preprinted on

the reverse side. The agency pays for the return postage.

Approximately 82% of the enforcement responses contained in the returned survey instruments indicate satisfaction with the respondent's enforcement contacts while 98% and 95% report satisfaction with compliance and licensing activities.

The agency's executive director reviews all survey responses as they arrive. Especially positive or extremely negative responses are shared with the appropriate director, such as the chief of enforcement or licensing or compliance director and local supervisors. The executive director sends supportive letters to employees exhibiting outstanding customer service and directs the in-line supervisors to investigate and correct any identifiable problems which are noted in comments.

Following review, all returned questionnaires are data-entered and then stored. The entered responses are tabulated quarterly and then analyzed. Satisfaction rates are calculated and shared with all levels of management, as well as with the agency's governing body, before being externally reported to the Legislative Budget Board. Statistical analyses are performed to identify differences in demographic group response patterns.

**G. Describe the agency's process for handling complaints against the agency, including the maintenance of complaint files and procedures for keeping parties informed about the process. If the agency has a division or office, such as an ombudsman, for tracking and resolving complaints from the public or other entities, please provide a description.**

The Texas Alcoholic Beverage Commission has an internal affairs office that coordinates and maintains personnel complaints from the public and employees of the agency. Complaints received are reviewed, logged, and a determination is made as to whether internal affairs or a field supervisor will investigate. Once this determination is made, the complainant is contacted and informed of the investigation. When the investigation is completed and reviewed, the complainant and employee involved are notified of the outcome. Personnel complaints and investigative files are maintained in the internal affairs office. Contact numbers for the internal affairs office are published on the agency's public web page.

**H. Please fill in the following chart. The chart headings may be changed if needed to better reflect the agency's practices.**

<b>Texas Alcoholic Beverage Commission Exhibit 16: Complaints <u>Against the Agency</u> – Fiscal Years 2001 and 2002</b>		
	<b>FY 2001</b>	<b>FY 2002</b>
<b>Number of complaints received</b>	24	19
<b>Number of complaints resolved</b>	24	19

<b>Number of complaints dropped/found to be without merit</b>	13	9
<b>Number of complaints pending from prior years</b>	0	0
<b>Average time period for resolution of a complaint</b>	30	30

**I. What process does the agency use to respond to requests under the Public Information (Open Records) Act?**

Requests under the Public Information Act (PIA) may be received by mail, fax or e-mail by any employee of the Texas Alcoholic Beverage Commission. In addition, requesters may deliver requests in person to any office of the commission. All offices of the TABC, as well as the agency's web site, display a copy of the Public Information Act.

Once received, the requests are forwarded to the commission's office of general counsel for assessment. Responsive records are then assembled and reviewed by general counsel for possible exceptions to the PIA. All records determined to be public are provided to the requestor as quickly as possible, but no less than 10 working days from receipt of the request. Requesters who request a voluminous number of documents are offered the opportunity to view the public records in person.

Any information that is determined by general counsel to be confidential is withheld from the requestor and forwarded to the Open Records Division, Office of the Attorney General for a decision as to their availability to the public. Once the attorney general has made a determination regarding the records in question, the commission acts according to the decision of the attorney general.

The Texas Alcoholic Beverage Commission follows the rules of the Texas Building and Procurement Commission with regards to monetary charges for records provided to requesters.

**J. Please fill in the following chart with updated information and be sure to include the most recent e-mail address if possible.**

**Texas Alcoholic Beverage Commission  
Exhibit 17: Contacts**

**INTEREST GROUPS**

(groups affected by agency actions or that represent others served by or affected by agency actions)

<b>Group or Association Name/ Contact Person</b>	<b>Address</b>	<b>Telephone &amp; Fax Numbers</b>	<b>E-mail Address</b>

Adapt Bob Kafka	1339 Lamar Square Drive, Suite B Austin, TX 78704		
Anheuser-Busch Companies Mark Bordas	100 Congress Avenue, Suite 1560 Austin, TX 78701	512 236-9242 512 236-9038	
Anheuser-Busch Companies Clay Haas	57 Teak Mill Place The Woodlands, TX 77382		
Anheuser-Busch Companies Joe Jedlicka	One Busch Place St. Louis, MO 63118-1852	314 577-2046 314 577-9862	
Anheuser-Busch Companies Ken Judd	One Busch Place St. Louis, MO 63118-1852	314 577-7104 314 765-9271	
Anheuser-Busch Companies Stephen Lambright	One Busch Place St. Louis, MO 631181852	314 577-2901 314 577-4476	
Associated Wineries of Texas Ed Auler	1402 San Antonio Street, Suite 200 Austin, TX 78701	512 476-4477 521 476-6116	
Austin Community College Cheryl Richard	5930 Middle Fiskville Road Austin, TX 78752		
Baylor University Pat Saiz	P. O. Box 97112 Waco, TX 76798		
Beer Alliance of Texas Rick Donley	1300 Guadalupe, Suite 204A Austin, TX 78701	512 474-5378 512 479-0720	
Bexar County Sheriffs Office Irene Valdez	233 North Pecos, Suite 480 San Antonio, TX 78207	210 335-6719	ivaldez@co.bexar.tx.us
Blinn Community College Robert Haberman	902 College Avenue Brenham, TX 77833		
Brazos Consulting & Lic. Larry D. Karstadt	P. O. Box 7051 Bryan, TX 77085		
Buchman & O'Brien, LLP Mark Koslowe	510 Thornall Street, Suite 200 Edison, NJ 08837	732 632-9463 732 632-8760	
Butera License Service	1445 North Loop West, Suite 190 Houston, Texas 77008		
William Clark III	3838 Oak Lawn Avenue, Suite 911 Dallas, TX 75219		
Community Alliance for Traffic Safety Mr. Dean Desoto	7719 Pipers Lane San Antonio, TX 78251		
Community Alliance for Traffic Safety Frank Gugudan	7719 Pipers Lane San Antonio 78251		
Coors Brewing Company Robert Livingston	P. O. Box 20685 Nashville, TN 37204	615 373-2820 615 373-1336	

*Self-Evaluation Report*

Coors Brewing Company Terrance Micek	311 10 <sup>th</sup> Street Golden, CO 80401	303 277-3344 303 277-7373	
Corpus Christi Police Dept. Pat P. Eldridge	P. O. Box 9016 Corpus Christi, TX 78469-9016	361 886-2696	pat@cctexas.com
DISCUS, Inc. Jay Howard	823 Congress Avenue, Suite 900 Austin, TX 78701	512 480-8962 512 480-8964	
DISCUS, Inc. Dale Szyndrowski	1250 Eye Street, NW, Suite 400 Washington, DC 20005-3998	202 682-8806 202 628-8849	
Nub Donaldson	1122 Colorado, Suite 210 Austin, TX 78701		
Downtown Austin Alliance Sam Alison	211 E. 7 <sup>th</sup> Street, Suite 100-L Austin, TX 78701	512 469-1766 512 477-7456	
Downtown Austin Alliance Charles Betts	211 E. 7 <sup>th</sup> Street, Suite 100-L Austin, TX 78701	512 469-1766 512 477-7456	
Elite Driving Systems Marco Benavides	P. O. Box 534324 Harlingen, TX 78553-4324		
David Farrar	2700 White Oak Houston, TX 77007		
Stephen Fenoglio	3660 Stone Ridge Road, Suite B-102 Austin, TX 78746	512 347-9944 512 347-7085	
Fiesta Mart, Inc. Chris Carmouche	5235 Katy Freeway Houston, TX 77007	713 869-5060 713 865-5546	
Gidden Distributing Company Don Gidden	P. O. Box 449 Temple, TX 76504	254 773-9933 254 771-2134	
GLI Distributing John Gillis	P. O. Box 830728 San Antonio, TX 78283	210 226-4376 210 223-6236	
Graydon Gibson & Brown, LLP Galt Graydon	1001 Congress Avenue, Suite 400 Austin, TX 78701	512 225-1000 512 225-1010	
Gulf Coast Grocery Joe Williams	1300 Shepherd Drive Houston, TX 77007-3455	713 862-3001 713 862-5296	
Hack Branch Distributing Company Hack Branch, Jr.	320 University Parks Drive Waco, TX 76701	254 752-5574 254 752-3501	
Health Science Center at SA Michelle Price	Mail Code 7791 7703 Floyd Court Drive San Antonio, Texas 78229-3900	210 56707833	pricema@uthscsa.edu
Holland & Knight Richard Blau	400 N. Ashley Drive, Suite 2300 Tampa, FL 33602	813 227-6775 813 229-0134	

Huston-Tillotson College Rosalee Martin	900 Chicon Street Austin, TX 78702		
Jack Roberts Law Office Francis Kurio	400 W. 15 <sup>th</sup> Street, Suite 320 Austin, TX 78701	512 477-6833 512 477-2556	
Jansen and Gregorczyk Russell Gregorczyk	P. O. Box 601 Kyle, TX 78640	512 268-0070	rgreg5@aol.com
Johnson & Johnson Gordon Johnson	1122 Colorado, Suite 208 Austin, TX 78701	512 478-7777 512 478-7869	
Johnston Reed Watt & Goff John Slimp	310 S. St. Mary's, Suite 2600 San Antonio, TX 78205	210 258-2632 210 258-2699	
L&B Multifamily Advisors David W. Gleeson, CRE	8750 N. Central Expwy., Suite 800 Dallas, TX 75231		
Lee & Garcia Michael Stuart Lee	615 N. Upper Broadway, #708 Corpus Christi, TX 78477		
Justin Lee	320 Bayshore Corpus Christi, TX 78412		
Bob Levine	146 Westcott, Suite 200 Houston, TX 77007-7000		
Licensed Beverage Distributors Robert Sparks	1108 Lavaca, Suite 100 Austin, TX 78701	512 478-5653 512 478-2732	
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## VIII. 78th Legislative Session Chart

Fill in the chart below or attach information if it is already available in an agency-developed format. In addition to summarizing the key provisions, please provide the intent of the legislation. For example, if a bill establishes a new regulatory program, please explain why the new program is necessary (e.g., to address specific health and safety concerns, or to meet federal mandates). For bills that did not pass, please briefly explain the issues that resulted in failure of the bill to pass (e.g., opposition to a new fee, or high cost of implementation). See Exhibit 18 Example or [click here to link directly to the example](#).

<b>Texas Alcoholic Beverage Commission Exhibit 18: 78th Legislative Session Chart</b>		
<b>Legislation Enacted - 78th Legislative Session</b>		
<b>Bill Number</b>	<b>Author</b>	<b>Summary of Key Provisions/Intent</b>
HB 7	Heflin	Decreased current year appropriations by 7%.
HB 295	Smith, Todd	Security required to contest an application for certain alcoholic beverage licenses was deleted. Intended to alleviate barriers for citizen protests on beer licenses.
HB 671	Lewis	Small restaurants with less than 2,500 square feet would be exempt from two free restroom requirement - only one would be required.
HB 724	Hochberg	Civil liability of alcoholic beverage providers for providing alcoholic beverages to certain individuals. Was amended to include employees who are intoxicated.
HB 941	Chisum	Allows storage of certain beer, malt liquor and ale for export which does not meet Texas standards.
HB 1056	Hamilton	Employment of a minor in certain establishments that serve alcoholic beverages.
HB 1114	Moreno, Joe	Changes standard of proof from knowingly to "with criminal negligence" in reference to sale to intoxicated person.
HB 1199	Krusee	Provides for elections for cities in two counties and other petition requirements.
HB 1232	Geren	Changes expiration of licenses/permits to two years. (VETOED)
HB 1264	Cook, Robby	Allows wineries in wet areas to sell for on or off-premise consumption.
HB 1510	Flores	Package store tasting permits - extends tasting to 20 products.

HB 1625	Deshotel	Temporary wine and beer retailer's permit not required to be in county of basic permit or license.
HB 2005	Moreno, Joe	Qualifications for alcoholic beverage licenses and permits extended to five years after termination if sentence for felony.
HB 2112	Homer	Liability of an employer for actions of an employee for sale to non-member can be lessened if all employees are seller trained.
HB 2156	Goolsby	Size of containers for certain alcoholic beverages.
HB 2376	Elkins	Correction or removal from the statutes of obsolete references regarding the surety bonds of state officers and employees.
HB 2579	Goolsby	Extended hours of sale for mixed beverages and beer in certain counties where city is over 500,000 in population.
HB 2593	Homer	Changes provisions for wineries if constitutional amendment passes.
HB 3305	Berman	Changed provisions that limited fees and surcharges to amount of appropriation.
HB 3507	Marchant	Nonsubstantive additions to and corrections in enacted codes, to the nonsubstantive codification or disposition of various laws omitted from enacted codes.
HJR 85	Homer	Allowing wineries in this state to sell and dispense certain wine - constitutional amendment.
SB 855	Madla	Funding of the Wine Marketing Assistance Program.
SB 935	Jackson	Amended fraternal organizations that are exempt from certain requirements of the Alcoholic Beverage Code - added Merchant Seafarers.
SB 1251	Armbrister	Agreements for the electronic processing of certain licenses or permits.
SB 1273	Armbrister	Alternatives to suspension of alcoholic beverage licenses and permits - civil penalties cannot be set on economic impact but rather on type of permit, violation, violation history and aggravating factors.
SB 1380	Armbrister	Alcoholic beverage industry sponsorship at public entertainment facilities.

**Legislation Not Passed - 78th Legislative Session**

<b>Bill Number</b>	<b>Author</b>	<b>Summary of Key Provisions/Intent/Reason the Bill did not Pass</b>
HB 17	Corte	Punishment for the sale of an alcoholic beverage to a minor.
HB 306	Denny	Certain local option elections for certain cities located in more than one county.
HB 657	Wilson	Relevant statutory provisions relating to age in the regulation of alcoholic beverages.

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HB 691	Smith, Wayne	Fraternal organizations that are exempt from certain requirements of the Alcoholic Beverage Code.
HB 768	Mowery	Importation of wine into the state by direct shipment.
HB 781	McCall	Local option election for the sale of beer and wine in certain cities or towns located in more than one county.
HB 922	Eiland	Liability insurance for certain persons licensed or permitted under the Alcoholic Beverage Code.
HB 1008	Woolley	Notice of certain applications for alcoholic beverage permits and licenses.
HB 1105	Goolsby	Requirements for a private club registration permit under the Alcoholic Beverage Code.
HB 1134	Wise	Parity in the regulation of tobacco products among on-premise alcoholic beverage license and permit holders.
HB 1147	Dutton	Hours for selling alcoholic beverages in certain establishments.
HB 1500	Denny	A local option election for the sale of alcoholic beverages in cities or towns located in more than one county.
HB 1598	Madden	Local option elections relating to the sale of alcoholic beverages.
HB 1620	Swinford	Funding of the Texas Wine Marketing Assistance Program.
HB 1656	Wohlgemuth	Local option election for the sale of certain alcoholic beverages in certain cities or towns located in more than one county.
HB 1659	Goodman	Certain procedures for local option elections.
HB 1881	Swinford	Location of a wine bottler's permitted premises.
HB 1992	Brown, Betty	Local option election for the sale of alcoholic beverages in cities or towns located in more than one county.
HB 1998	Gutierrez	Changing the titles of the heads of the staff of the Alcoholic Beverage Commission to executive director and assistant executive director.
HB 2024	Pena	Certain fees for importing certain alcoholic beverages.
HB 2077	Driver	A local option election for the sale of certain alcoholic beverages in certain cities or towns located in more than one county.
HB 2114	Homer	The size of containers for certain alcoholic beverages.
HB 2314	Allen	Certain local option elections for certain cities located in more than one county.

HB 2315	Allen	Certain local option elections for certain cities located in more than one county.
HB 2461	Hope	Local option elections relating to the sale of alcoholic beverages.
HB 2480	Jones, Jesse	An increase in taxes on alcoholic beverages and the distribution of that increase to certain municipalities for use in urban renewal projects.
HB 2494	Isett	Amount a manufacturer or wholesaler may charge for an alcoholic beverage.
HB 2502	Flores	Local option elections for the sale of alcoholic beverages.
HB 2580	Goolsby	Extended hours of sale for mixed beverages and beer in certain counties.
HB 2621	Ellis, Dan	Local option elections to allow the legalization or prohibition of alcoholic beverages in certain special districts.
HB 2768	Woolley	Facilitating and supporting efforts of certain municipalities to promote economic development by hosting different sporting activities.
HB 2816	Driver	Local option election for the sale of certain alcoholic beverages in certain cities or towns located in more than one county.
HB 2849	Denny	Possession and consumption of an alcoholic beverage on premises that are licensed or permitted under the Alcoholic Beverage Code.
HB 2865	Swinford	Activities by the holder of a winery permit.
HB 2867	Telford	Requirement for filing of a conduct surety bond by certain alcoholic beverage license and permit holders.
HB 2880	Driver	Alcoholic beverage industry sponsorship at public entertainment facilities.
HB 2917	Christian	A tax on certain imported alcoholic beverages.
HB 3112	Dunnam	Provision of alcoholic beverages to a person under 18 years of age.
HB 3382	Merritt	Public school finance.
HJR 86	Ellis, Dan	Allowing a local option election to legalize or prohibit the sale of mixed beverages in certain special districts.
SB 338	Averitt	Local option election for the sale of certain alcoholic beverages in certain cities or towns located in more than one county.
SB 359	Shapiro	Local option election for the sale of beer and wine in certain cities or towns located in more than one county.
SB 405	Hinojosa	Prevention of, prosecution of, and punishment of identity theft and to assistance to certain victims of identity theft.
SB 646	Wentworth	Security required to contest an application for certain alcoholic beverage licenses.
SB 770	Madla	Direct shipment of wine to consumers.

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SB 829	Whitmire	Local option elections for the sale of alcoholic beverages.
SB 863	Whitmire	Security costs required of a person who contests certain alcoholic beverage license applications.
SB 936	Jackson	Civil liability of alcoholic beverage providers for providing alcoholic beverages to certain individuals.
SB 1322	Harris, Chris	Nonsubstantive additions and corrections in enacted codes.
SB 1360	Lindsay	Creation of trauma and emergency services revenue districts.
SB 1391	Van de Putte	Package store tasting permits.
SB 1496	Madla	Certain administrative fees and taxes collected by the Texas Alcoholic Beverage Commission.
SB 1502	Harris, Chris	Certain local option elections for certain cities located in more than one county.
SB 1503	Hartris, Chris	Certain local option elections for certain cities located in more than one county.
SB 1674	Madla	Regulation of alcoholic beverage manufacturers, wholesalers and retailers.
SB 1817	Van de Putte	Creation of a grocery certificate for the sale of alcoholic beverages.
SB 1860	Bivins	Making supplemental appropriations and making reductions in current appropriations.
SB 1864	Bivins	Statutory to reduce appropriations made by the legislature to certain governmental entities.
SB 1882	Whitmire	Facilitating and supporting the efforts of certain municipalities to promote economic development by hosting the Pan American Games, Olympic Games and other events.
SCR 27	Madla	Requesting the Legislative Council to schedule a revision of the Alcoholic Beverage Code.

## **IX. Policy Issues**

### **A. Brief Description of Issue**

Should the current licensing and permitting structure be revised?

### **B. Discussion**

Currently, the commission issues 64 different licenses/permits and certificates to persons engaged in commerce in alcoholic beverages. This system is divided into categories of licenses for those dealing in beer and permits issued for those dealing in wine, distilled spirits and malt liquor. *Compare Texas Alcoholic Beverage Code Title 3, Subtitles A and B.* While the licensing and permitting system are generally similar, there are a number of important differences in the respective application and qualification processes for licenses and permits. *Compare Texas Alcoholic Beverage Code Chapters 11 and 61.*

### **C. Possible Solutions and Impact**

Recommendation No. 1: Create one unified system of alcoholic beverage permits.

Impact: Following this recommendation would involve creating one set of criteria for application, qualification, denial and cancellation of alcoholic beverage permits. This would require some changes in current law in this area. Also, this change would probably require removal of county judges, acting as administrative hearings judges, from the beer licensing process.

Recommendation No. 2: Simplify the current license/permit structure thereby lessening expense, administrative burden, ambiguity and conflicting standards in current law.

Impact: Following this recommendation would require the deletion of a number of licenses and permits so that one permit would authorize the holder to perform all activities necessary for the conduct of that business.

Recommendation No. 3: Make the duration of all alcoholic beverage licenses and permits two years.

Impact: Currently all licenses and permits issued by the commission expire after one year. Extending this period to two years would lessen the administrative burden of the reapplication process for both agency and industry.

Recommendation No. 4: Revise the current license structure so as to make the system for importation of beer and liquor alike.

Impact: Currently, the agency issues a non-resident sellers permit to those persons importing liquor into the state. By contract, the agency is required to license the actual manufacturer of beer, wherever that manufacturing system may be located. This licensing system creates conflicts with the federal licensing system and with modern business practices in the beer industry that are probably unnecessary in light of regulatory interests.

#### **A. Brief Description of Issue**

Should the law regarding inter-tier relations and certain promotional practices be revised?

#### **B. Discussion**

Alcoholic beverages, with some exceptions, flow through the three tiers of manufacturer/importer, wholesaler and retailer. Texas follows a broad policy of banning overlapping ownership and exchanges of goods, benefits and services among the tiers. While in general this policy commands broad support within the state and among other states, certain aspects of the policy no longer conform to widely accepted business forms and practices. At least arguably, these aspects of Texas law place restrictions on commerce which are unnecessary in light of public welfare interests.

#### **C. Possible Solutions and Impact**

Recommendation No. 1: Reconsider the scope of statutory proscriptions against overlapping inter-tier ownership.

Impact: Banning overlapping ownership among tiers of the alcoholic beverage industry remains good policy. However, current law bans common ownership interests that are small and remote from the operation of alcoholic beverage merchants. Investigation for such interests presents a significant burden on the commission's licensing resources and results in the rejection of license/permit applications in situations where tied house relations or the public welfare are not, in fact, threatened.

Recommendation No. 2: Reconsider the scope of statutory proscriptions against the provision of goods, benefits and services to retailers by wholesalers and manufacturers.

Impact: Historically, the provision of goods, benefits and services to retailers from upper tier members as a method of promoting products and engaging in competition has been banned on the theory that such practices present the danger of tied house relationships. That is, through such practices manufacturers and wholesalers will establish operational control over retailers to the detriment of public temperance.

The supposition on which this policy stands is, at least arguably, no longer accurate in light of modern commercial conditions and the strength of other laws regulating anti-trust and commercial bribery actions. Accordingly, modification of these provisions may well lessen the administrative burden on the agency, lessen the burden of regulation on free competition, and remove ambiguity and uncertainty from the regulatory structure without negative effect on the public welfare.

Recommendation No. 3: Revise restrictions on external signs and advertising by licensees and permittees.

Impact: Under current law alcoholic beverage licensees and permittees operate under severe restrictions as to the substantive content of signs and outdoor advertising they can post on their own premises. *Texas Alcoholic Beverage Code, §§108.52, 108.54.*

These restrictions conflict with modern advertising and promotional practices in commerce generally and are not clearly connected to promotion of public temperance. Accordingly, it may well be that these restrictions are unnecessary in light of legitimate regulatory interests.

#### **A. Brief Description of Issue**

Should Texas consumers be allowed broader rights to import alcoholic beverages for personal consumption?

#### **B. Discussion**

Currently, Texas law forbids out-of-state suppliers from shipping alcoholic beverages directly to Texas consumers. The Fifth Circuit Court of Appeals has recently ruled that, with regard to wine, this law violates the federal Interstate Commerce Clause and has enjoined the enforcement against sellers and shippers of wine, effectively de-regulating this channel of commerce.

#### **C. Possible Solutions and Impact**

Recommendation: Create a permit by which out-of-state suppliers of alcoholic beverages can sell and ship limited quantities of their product to adult Texas consumers for personal consumption.

Impact: Given modern trends in consumer behavior, Texans will order alcoholic beverages through indirect means. Such orders are difficult to detect and expensive to act against. Currently, the state is enjoined from taking any action against such transactions in wine. Better policy is to follow the example of other states and regulate this commerce. While this regulation will divert an unknown quantity of alcoholic beverages from the traditional three-tiered system, such diversion already exists through the agency of Texas brewpubs and wineries and unmonitored individual transactions. Imposition of a

regulatory structure would allow the state to monitor such individual transactions and collect applicable taxes.

#### **A. Brief Description of Issue**

Should the system governing alcoholic beverage seizures be revised?

#### **B. Discussion**

Current law requires that a forfeiture suit be filed by the attorney general, district or county attorney in response to all seizures of alcoholic beverages. The proceeds of such suits are to be divided, according to stated percentages, between the confiscated liquor and general revenue funds. By operation of other law the confiscated liquor fund no longer exists and so the Alcoholic Beverage Code inaccurately reflects current practice. Further, no provision is made to compensate prosecuting attorneys for the costs of forfeiture suits.

#### **C. Possible Solutions and Impact**

Recommendation: Revise the Alcoholic Beverage Code to align procedures relating to forfeiture of alcoholic beverages with similar procedures for other types of seized property.

Impact: Following this recommendation will harmonize the law and actual practice and facilitate the timely and efficient prosecution of forfeiture suits.

#### **A. Brief Description of Issue**

Should Texas law be revised to require registration of beer kegs, mandatory seller training for all alcoholic beverage providers, and to ban minors from certain types of retail establishments?

#### **B. Discussion**

Unlike other states, Texas does not require beer kegs, sold for off-premises consumption, to bear information identifying seller and buyer. When kegs are found in the possession of minors such information allows investigators to identify persons who unlawfully sold or provided alcoholic beverages to minors.

Similarly, minors may enter and patronize every type of on-premises alcoholic beverage establishment

except package stores. The commission's experience indicates that when minors patronize on-premises establishments that are not primarily restaurants, they are likely to obtain alcoholic beverages.

Finally, there is at least some evidence indicating that persons who attend seller/server training schools licensed by the commission are less likely to sell alcoholic beverages to intoxicated patrons and minors. Currently, attendance at such schools is voluntary rather than mandatory.

### **C. Possible Solutions and Impact**

Recommendation No. 1: Merchants selling beer kegs for off-premises consumption should be required to affix a label reflecting the buyer and seller of the keg.

Impact: Imposing this requirement would place a fiscal burden on alcoholic beverage merchants relating to the purchase of labels and maintenance of attendant records. This impact would be offset by increased efficiency in detecting and prosecuting those who sell or provide alcoholic beverages to minors.

Recommendation No. 2. Persons under 21 years of age should be barred from on-premises establishments that do not hold a food and beverage certificate unless accompanied by an adult parent, guardian or spouse.

Impact: Adoption of this recommendation will impose an unknown level of economic loss on establishments that sell alcoholic beverages for on-premises consumption and that are not primarily restaurants through the loss of the patronage of minors. This loss will be offset by a reduction in the number of minors who obtain access to alcoholic beverages.

Recommendation No. 3. Sellers and servers of alcoholic beverages should be required to attend schools licensed by the commission under the authority of §106.14 of the Alcoholic Beverage Code and 16 Tex. Admin. Code Chapter 50.

Impact: Roughly half of alcoholic beverage licensees/permittees statewide avail themselves of training offered by commission-licensed schools. Making such attendance mandatory would impose a significant economic burden on the retail tier of the industry. The requirement would, however, decrease the likelihood that sellers and servers would provide alcoholic beverages to intoxicated or minor patrons to some unknown degree.