



# Texas Alcoholic Beverage Commission

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## Summary

The Texas Alcoholic Beverage Commission (TABC) regulates all phases of the alcoholic beverage industry. The Legislature created the agency in 1935 in response to the repeal of Prohibition. The agency has four primary functions: licensing alcoholic beverage manufacturers, wholesalers, and retailers; enforcing administrative and criminal laws in the Alcoholic Beverage Code; collecting taxes on alcoholic beverages; and providing educational programs to address issues such as underage drinking. TABC operates with an annual budget of \$38.2 million, and a staff of 686, including 300 commissioned law enforcement officers.

Senate Bill 904 continues TABC for 12 years. The bill also contains the Sunset Commission's recommendations to update the agency's mission, improve its enforcement efforts, and modernize other functions of the agency. The list below summarizes the major provisions of S.B. 904, and a more detailed discussion follows.

## Sunset Provisions

1. Update TABC's mission to better reflect the agency's role in protecting public safety and regulating the modern alcoholic beverage industry.
2. Ensure TABC's enforcement efforts are fair, consistent, and focused on public safety.
3. Reduce TABC's regulation of certain business practices that duplicate federal requirements, impose unnecessary costs and delays on the industry, and create excessive burdens for the agency.
4. Require TABC to develop a formal process for making and communicating policy decisions regarding marketing practices regulations.
5. Require the agency to create a more formal and consistent approach to investigating and resolving complaints against its employees.
6. Ensure licensees have access to online license application, renewal, and fee payment.
7. Require establishments that serve alcohol to post signs warning the public of the risks of drinking alcohol during pregnancy.
8. Expand TABC's authority to take enforcement action against establishments that sell or serve alcohol during prohibited hours.
9. Continue the Texas Alcoholic Beverage Commission for 12 years.

# Sunset Provisions

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## **1. Update TABC’s mission to better reflect the agency’s role in protecting public safety and regulating the modern alcoholic beverage industry.**

Senate Bill 904 defines the agency’s mission by updating the existing statutory language to focus the agency on:

- ◆ protecting the public safety by deterring and detecting violations of the law;
- ◆ promoting legal and responsible alcohol consumption;
- ◆ ensuring fair competition within the alcoholic beverage industry;
- ◆ ensuring consistent, predictable, and timely enforcement of the law;
- ◆ ensuring a consistent, predictable, and timely licensing process;
- ◆ promoting and fostering voluntary compliance with the law; and
- ◆ communicating the requirements of the law clearly and consistently.

## **2. Ensure TABC’s enforcement efforts are fair, consistent, and focused on public safety.**

The bill requires TABC to replace its existing penalty chart with one that reflects its full penalty authority and provides more complete guidance to ensure fair and consistent application of penalties. The agency’s schedule of sanctions must include both the number of days of suspension for a particular violation and the corresponding fine amount, among other requirements.

Senate Bill 904 requires TABC to develop a risk-based approach to conducting its enforcement activities by focusing on detecting serious violations with an impact on public safety, and more closely monitoring businesses with a history of complaints and violations. TABC must develop benchmarks and goals to track key enforcement activities and their results. TABC must also track and analyze the nature of violations detected, their disposition, and the businesses that produce the most serious violations, statewide and per region.

The bill also requires TABC to adopt rules that clearly define the agency’s complaint process from receipt to disposition. The bill directs the agency to place complaints in priority order and handle the most serious problems first. TABC must compile detailed statistics and analyze trends on complaint information to get a clearer picture of problems people have with its licensees.

## **3. Reduce TABC’s regulation of certain business practices that duplicate federal requirements, impose unnecessary costs and delays on the industry, and create excessive burdens for the agency.**

Senate Bill 904 eliminates label approval and testing for liquor and wine. Instead, the bill authorizes the agency to implement a label registration program to accept federal Certificates of Label Approval for liquor and wine. Once TABC registers a federal certificate, the manufacturer will be in full compliance with agency standards.

The bill also eliminates the requirement that the agency perform chemical analyses of all new beer products. Instead, beer manufacturers will have the option of submitting to TABC analyses from independent, reputable laboratories indicating the alcohol content of their products. If a manufacturer chooses not to submit an independent lab analysis, TABC will test its product.

Senate Bill 904 eliminates fees set in statute for the approval of new alcoholic beverage products, and instead allows TABC to set fees in rule to cover the cost of these activities. The bill also allows distributors to report retailers who are delinquent in making payments for liquor and wine by electronic mail or other means authorized by the agency.

**4. Require TABC to develop a formal process for making and communicating policy decisions regarding marketing practices regulations.**

As part of this formal process, S.B. 904 requires TABC staff to meet with a cross section of industry members to discuss regulatory issues and gather input for the drafting of marketing practices policies. The agency must document its decisions by using a precedents manual or drafting formal advisories. The agency must then make these documents available to regional staff, as well as to industry members, through the agency's website, electronic mail, and agency publications.

**5. Require the agency to create a more formal and consistent approach to investigating and resolving complaints against its employees.**

Senate Bill 904 requires TABC to maintain an internal affairs function to ensure fair, effective, and impartial investigations of alleged misconduct by its law enforcement officers and other employees. The Commission, by rule, must outline general guidelines to inform the public of how to file a complaint and what steps the agency will take to address that complaint. The agency's Administrator must appoint and directly oversee the head of internal affairs. The bill also requires the internal affairs staff to report monthly to the Administrator and quarterly to the Alcoholic Beverage Commission on information relating to complaint investigations.

**6. Ensure licensees have access to online license application, renewal, and fee payment.**

The bill directs TABC to provide for online license application, renewal, and payment of fees. This provision will ensure that applicants have access to an automated system that reduces delays in the licensing process by making license applications available online. Licensees can use the automated system to renew their licenses, check the status of license applications and renewals, and pay licensing fees.

**7. Require establishments that serve alcohol to post signs warning the public of the risks of drinking alcohol during pregnancy.**

Senate Bill 904 requires TABC to adopt rules that require establishments selling alcohol for on-premise consumption, such as restaurants and bars, to post signs on men's and women's bathroom doors that remind the public of the health risks posed to unborn children when pregnant women drink alcohol.

**8. Expand TABC’s authority to take enforcement action against establishments that sell or serve alcohol during prohibited hours.**

Senate Bill 904 establishes specific criminal sanctions against licensees who violate after-hours laws or hinder TABC’s investigation of such violations. The following violations are Class A misdemeanors:

- ◆ selling or serving alcohol during prohibited hours;
- ◆ consuming or permitting consumption of alcohol on licensed premises during prohibited hours; and
- ◆ refusing to allow entry to inspectors and law enforcement personnel.

The bill allows TABC to take enforcement action against individuals who consume alcohol at establishments during prohibited hours by defining these locations as public places. Senate Bill 904 allows TABC to suspend a license, rather than offer the option of an administrative penalty, for licensees who commit after-hours violations. Under this provision, TABC, rather than the licensee, will have the option to decide whether an administrative penalty or suspension is appropriate in each case. The bill also requires TABC to report to the Legislature on its enforcement efforts concerning violations involving after-hours alcohol sales, service, and consumption.

**9. Continue the Texas Alcoholic Beverage Commission for 12 years.**

Senate Bill 904 continues TABC as an independent agency responsible for regulating the alcoholic beverage industry for 12 years.

## *Fiscal Implication Summary* \_\_\_\_\_

Senate Bill 904 will not have a significant fiscal impact to the State.