

SUNSET COMMISSION DECISIONS



TEXAS ALCOHOLIC BEVERAGE COMMISSION

December 2004

AGENCY INFORMATION

Agency at a Glance

The Texas Alcoholic Beverage Commission (TABC) regulates all phases of the alcoholic beverage industry to ensure the protection of the welfare, health, peace, temperance, and safety of the people of Texas. The Legislature created the agency, originally called the Liquor Control Board, in 1935, in response to the repeal of Prohibition. Today, the agency endeavors to protect the people of Texas while facilitating fairness, balanced competition, and responsible behavior in the alcoholic beverage industry through voluntary compliance. To accomplish its mission, the Commission:

- licenses alcoholic beverage manufacturers, wholesalers, and retailers;
- enforces administrative and criminal laws in the Alcoholic Beverage Code;
- collects taxes on alcoholic beverages; and
- provides educational programs to address issues such as underage drinking.

Key Findings

- **Funding.** The agency spent more than \$25.2 million for its operations in fiscal year 2003 - all of which came from licensing fees and surcharges.
- **Staffing.** In fiscal year 2003, the agency had 515 employees, including 214 commissioned law enforcement officers. About a quarter of these employees are located at the Headquarters in Austin, and the rest work in the agency's many field offices around the state and ports of entry along the Mexico border.
- **Licensing.** The agency issued or renewed more than 96,000 licenses in fiscal year 2003, including more than 65,600 retailer, 860 wholesaler, and 1,600 manufacturer licenses. Some businesses require more than one license to operate, and so the agency actually licensed approximately 38,700 locations that year.
- **Enforcement.** In fiscal year 2003, the agency resolved 16,483 administrative violations from all divisions and issued citations for 17,389 criminal violations. As a result, the agency collected \$2.8 million in fines, temporarily suspended licenses for 3,326 violations, and cancelled licenses for 201 violations, among other enforcement actions. The agency also received 5,719 complaints and resolved 5,689.
- **Tax Collection.** In fiscal year 2003, TABC collected nearly \$166 million in excise, personal importation, airline and passenger train taxes, and associated fees on alcoholic beverages.
- **Education.** The agency presented its educational programs to more than 410,000 people in fiscal year 2003, including school children, college students, local law enforcement personnel, civic and community group members and licensed businesses. In that same year, the agency received \$422,000 in federal grants for educational programs, most of which it passed through to local law enforcement, advocacy, and university groups.

ISSUES / RECOMMENDATIONS

Issue 1 TABC Lacks the Clear Focus and Strategic Direction Needed in Today's Alcoholic Beverage Regulatory Environment.

Recommendations

Change in Statute

1.1 Update TABC's mission to better reflect today's alcoholic beverage regulatory environment and the agency's role in public safety issues.

This recommendation would better define the agency's mission in statute by updating the existing 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.

Management Action

1.2 Direct TABC to improve its strategic planning process so that it helps prioritize the agency's activities and measures its progress toward meeting its goals.

This recommendation aims to help TABC develop a more effective strategic planning process using the steps laid out in the textbox, *An Effective Strategic Management Process*. More specifically, TABC should incorporate the following activities into its strategic planning process to allow the agency to stay focused on its mission, as laid out above.

- TABC should work with the Legislative Budget Board and the Governor's Office of Budget, Planning, and Policy to change its strategic plan and performance measures as necessary to carry out the mission laid out in Recommendation 1.1. The goals should relate directly to that mission and the measures should be designed to provide an accurate picture of the effort being measured. The measures should not only capture the agency's activities but should also assess the effect in terms of outcomes.
- TABC should develop region-specific goals as building blocks for the agency's strategic plan. Each region should use local input to determine the priorities for attention and to best allocate resources.
- TABC should establish procedures to monitor progress in meeting its statewide and region-specific strategic goals, and identify organizational and operational changes as needed to address problems that may arise with meeting its goals.

An Effective Strategic Management Process

1. Collect and analyze data.
2. Set strategic direction.
3. Create organizational flexibility to implement strategic plan.
4. Implement effective performance measurement system.
5. Evaluate and report on outcomes.
6. Identify improvements for next cycle.

1.3 Direct TABC to focus more effort on research and data collection to better support its mission and goals.

The agency should place a higher focus on collecting and analyzing data related to issues affecting TABC's mission, such as traffic accidents involving alcohol, trends in binge drinking on college campuses, and how changes in the economy will affect the sale of alcohol and the number of licensed retailers. Such data should be collected and analyzed on a regional basis to help TABC's management make decisions about how best to allocate resources.

1.4 Direct TABC to evaluate alternative approaches for administering its educational programs to better support its mission and goals.

The agency should develop a detailed plan to guide its administration of existing programs and implementation of new ones. In creating this plan, the agency could consider consolidating the following duties and dedicating staff who are specialists in educational programs to perform these functions:

- developing educational programs and materials for specific groups, including school-aged children, college-aged adults, community groups, regulated businesses, and others;
- seeking out and applying for grants to fund the agency's educational programs;
- administering the agency's existing grant programs, in which the agency gives money to community groups for their own programs;
- administering the seller/server training program; and
- seeking opportunities to enhance TABC's outreach through its educational programs.

Fiscal Implication

These recommendations would not have a fiscal impact to the State. Recommendations 1.2, 1.3, and 1.4 are management actions, and the agency should implement them using existing resources.

Responses

Agency

The agency concurs with these recommendations. (Alan Steen, Administrator – Texas Alcoholic Beverage Commission)

For

Dale C. Szyndrowski, Vice President/Central Region – Distilled Spirits Council of the United States, Washington, D.C.

Gabe Parker – Homestead Winery and Texas Wine and Grape Grower's Association, Grapevine

Against

Opposes Recommendation 1.1: Jim Haire – Tyler

Recommended Action: Adopt Recommendations 1.1 through 1.4.

Commission Decision: Adopted Recommendations 1.1 through 1.4 with a modification to add pregnant women to the list of groups for whom the agency will develop educational programs and materials in the first bullet of Recommendation 1.4.

Issue 2 TABC Does Not Manage Its Enforcement Activities to Best Protect the Public's Safety.

Recommendations

Change in Statute

2.1 Require TABC to maintain a schedule of sanctions that includes all information necessary to ensure fair and consistent application of penalties.

This recommendation would require TABC to replace its existing standard penalty chart with one that reflects its full penalty authority and provides more complete guidance in assessing penalties. The agency's schedule of sanctions should include both the number of days of suspension for a particular violation and the corresponding fine amount. In developing the schedule, the agency needs to reflect the range of fines it can assess, from \$150 to \$25,000, according to the seriousness of the offense, the history of compliance, and other criteria set forth in the Alcoholic Beverage Code. The agency's schedule should address the most common types of violations, including those that apply to wholesalers and manufacturers. The schedule should also reflect the agency's more recent statutory authority with respect to sanctions for minor-related offenses.

The schedule of sanctions should allow for deviations due to mitigating or aggravating factors. However, the agency should develop clear policies to guide its staff in evaluating mitigating or aggravating factors in different circumstances, and how these factors could affect the penalty assessment. As part of this recommendation, the agency should require staff to report to Headquarters for approval of all cases in which executive management determines such approval is needed to allow deviation from the schedule.

The Commission should adopt the new schedule of sanctions in rules, providing for input from both the industry and the public. In addition, the agency should post its new schedule of sanctions on its Web site.

2.2 Authorize the agency to assess penalties according to the economic benefit a licensee may gain through noncompliance.

This recommendation would authorize the agency to assess penalties based on any economic benefit a licensee may gain through violating TABC's statute or rules. In implementing this recommendation, the agency would need to develop policies to guide staff in determining how much economic benefit the licensee realized and how that information should affect the amount of the penalty. This recommendation does not affect the statutory language added by the 78th Legislature to prohibit the agency from assessing sanctions according to the volume of sales, receipts, taxes paid, or financial condition of a licensee. Instead, it only applies to the specific amount of excess revenue a licensee may have earned by not complying with the law.

2.3 Require TABC to develop a risk-based approach to enforcement and to better measure the impact of its enforcement activities on public safety.

This recommendation would require the agency to develop policies and procedures for more effectively conducting and overseeing its enforcement activities according to the following provisions.

- Require 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 monitoring businesses with a history of complaints and violations, and any other factors the agency deems important.
- Require TABC to develop benchmarks and goals to track key enforcement activities and their results. The agency should track the number of enforcement activities by type, the number of violations detected from each activity, the amount of time spent on specific enforcement activities, and any other information determined necessary by executive management. TABC should also make use of this and other information to compare regional performance and determine best practices.
- Require TABC to track and analyze the nature of violations detected, their disposition, and the businesses that produce the most serious violations, statewide and per region. The agency should compile detailed statistics and analyze trends to get a clearer picture of problems facing the state. The agency should summarize these statistics and trends for executive management on a monthly basis and on a quarterly basis for its Board, as well as making this information available on its Web site.

2.4 Require TABC to develop standard procedures for handling complaints and for tracking and analyzing complaint data.

This recommendation would require the agency to develop policies and procedures for effectively managing the complaints the agency receives according to the following provisions.

- Require the Commission to adopt rules that clearly define the agency's complaint process from receipt to disposition.
- Require the agency to address complaints according to risk by placing complaints in priority order so that the agency handles the most serious problems first.
- Require TABC to develop a standard form for the public to make a complaint against an establishment. The complaint form should be available to the public on the agency's Web site.
- Require TABC to compile detailed statistics and analyze trends on complaint information to get a clearer picture of problems people have with its licensees. This complaint data should include information such as the nature of complaints and their disposition, and the length of time to resolve complaints. The agency should also track this information on a regional basis. The agency should report this information monthly to executive management and quarterly to the Commission. As part of this recommendation, TABC should make general information about the nature and disposition of complaints available on its Web site.

Management Action

2.5 Direct TABC to better define its performance measures to more accurately reflect the agency's enforcement activities.

TABC should work with the Legislative Budget Board and Governor's Office of Budget, Planning, and Policy to redefine its performance measures related to its enforcement activities. As part of this recommendation, the agency could consider creating additional performance measures to more specifically measure its various enforcement activities, such as stings, complaint investigations, and routine inspections. Alternatively, the agency could simply redefine its current performance measures so that it applies to all enforcement activities, not just inspections. TABC should also ensure agents

accurately account for their enforcement activities to avoid double-counting and other procedures that inaccurately reflect the agency's performance.

2.6 Direct TABC to develop standard procedures for conducting routine inspections of licensed establishments that include the use of a checklist and non-commissioned staff.

This recommendation would direct TABC to develop standard procedures for conducting routine on-premise inspections, including the use of a checklist of the types of violations staff should consistently check, to ensure that they consistently and thoroughly inspect each establishments. The agency should also consider using non-commissioned staff to conduct routine inspections.

2.7 Direct TABC to develop and implement a plan to increase the time its agents spend on enforcement activities.

This recommendation would direct the agency to develop a plan by September 1, 2006 for increasing the time its agents spend on enforcement activities. This plan should include strategies to reduce time spent on licensing and administrative activities and for using non-commissioned staff to perform routine inspections, as mentioned above. The agency could evaluate different options, such as redirecting some of its existing compliance and licensing staff or requesting additional resources from the Legislature to hire non-commissioned staff to perform a portion of these licensing or inspection duties. The agency's new automated licensing system should greatly facilitate this initiative by reducing time spent on licensing overall, and freeing officers to spend more time on enforcement.

In developing the plan, the agency should consider conducting an analysis of its enforcement staffing in each office to determine the cost-effectiveness of reorganizational alternatives, using input from the regions and the agency's internal auditor. Specifically, the agency should examine ways to reduce the need for enforcement agents in remote offices to spend up to 50 percent of their time on licensing activities.

2.8 Direct TABC to update its enforcement policies and procedures manual.

This recommendation would direct TABC to incorporate all of its current enforcement policies and procedural directives, communicated either verbally or through emails and memoranda, into its enforcement manual by March 1, 2006.

Fiscal Implication

The statutory recommendations in this issue would not have a fiscal impact to the State. However, the management recommendation directing TABC to develop a plan to increase the time its agents spend on enforcement activities could have a fiscal impact to the State, depending on how the agency approaches the problem. The agency should develop and implement the plan according to its available resources or whatever additional resources the Legislature appropriates for this purpose. The intent of this recommendation is to allow agents to spend more of their time on enforcement activities, while using less expensive non-commissioned staff to perform more routine licensing and inspection activities. This should also reduce the need for additional resources for law enforcement agents.

While this recommendation simply directs the agency to develop a plan, to implement this plan, the agency may need additional staff. For example, hiring five licensing staff, who could process 1,500 applications annually, and six compliance staff, who could perform about 25 percent of the agency's routine inspections each year, would cost \$353,000 for salaries and benefits per year.

Responses

Agency

The agency does not object to these recommendations and offers the following comments.

Recommendation 2.1: The agency agrees its schedule of sanctions should be updated, but in order to ensure penalties maintain a deterring effect, ample latitude should remain to set suspensions and fines at levels to deter the violations or punish the violator. The agency agrees to include input from the industry and post the schedule of sanctions on its Web site as it has done in the past.

Recommendation 2.2: Though the agency concurs it should have the opportunity to look for sanctions that have a deterring effect.

Agency Modification

1. The agency recommends that it be directed through a management action to assess penalties according to the economic benefit, rather than being required to do so in statute.

Recommendation 2.3: The agency agrees with the recommendation and began a risk-based approach in developing its action plans for the current year. The finalization of its technology transformation project and additional analysis and reporting tools will provide the agency with appropriate means to provide such information.

Recommendation 2.4: The agency concurs with this recommendation. The agency believes it has a good complaint system now but understands the need to formalize the process in rulemaking and track, analyze, and report that process through the final adjudication to the Commission.

Recommendation 2.5: The agency agrees with the recommendation and will revisit current enforcement measures with LBB and the Governor's Budget and Planning staff.

Recommendation 2.6: The agency is currently in the process of formalizing criteria for inspections and incorporating such in the procedures manual. The agency will consider using non-commissioned staff in some routine inspections; however, such inspections will be limited without additional compliance staff.

Recommendation 2.7: The agency is evaluating resources and should start development of a plan in the near future. The need for additional staffing is anticipated to complete the plan.

Recommendation 2.8: The agency agrees with the recommendation.

(Alan Steen, Administrator – Texas Alcoholic Beverage Commission)

For

Dale C. Szyndrowski, Vice President/Central Region – Distilled Spirits Council of the United States, Washington, D.C.

William Farquhar – Texas Alcoholic Beverage Commission Agents Association, Houston

Supports Recommendation 2.3: Gary Huddleston, Consumer Affairs Manager – Kroger Company and Texas Retailers Association, Irving

Supports Recommendations 2.1 and 2.3: Kirk W. Brown, President – Brazos Chapter of Mothers Against Drunk Driving, College Station

Against

Opposes Recommendation 2.2: Michael W. McKinney, Executive Vice President – Wholesale Beer Distributors of Texas, Austin

Modifications

2. When developing a risk-based approach to enforcement, TABC should:
 - a) tie surety bonds and graduated penalties to the licensed location, not the entire company;
 - b) limit the lifetime of a violation on record; and
 - c) provide a penalty that is short of cancellation for having un-invoiced alcohol on premise.
(Gary Huddleston, Consumer Affairs Manager – Kroger Company and Texas Retailers Association, Irving)
3. Require the agency to include referrals to district attorneys of criminal violations in the schedule of sanctions. (Winston Krause, General Counsel – Greater Austin Merchants Association, Austin)

Recommended Action: Adopt Recommendations 2.1 through 2.8.

Commission Decision: Adopted Recommendations 2.1, 2.3, 2.4, 2.5, 2.6, 2.7, and 2.8.

Issue 3 Over-Regulation of Certain Business Practices Serves No Consumer Interest, Imposes Unnecessary Costs on the Industry, and Creates Excessive Burdens for the Agency.

Recommendations

Change in Statute

3.1 Eliminate restrictions on the size of beer containers that can legally be sold in Texas.

This recommendation would eliminate the requirements that beer only be sold in specific container sizes. The State would instead allow the sale of beer in any container size. This change would allow the industry to decide which beers to sell in Texas based on consumer preference, without having to consider if the container size meets state requirements.

3.2 Eliminate label approval and testing for liquor and wine, and instead authorize TABC to register federal certificates of approval for these products.

This recommendation would authorize the agency to implement a label registration program to accept federal Certificates of Label Approval for liquor and wine. This recommendation would eliminate statutory requirements for state approval of liquor labels, and clearly authorize TABC to implement a process to accept federal approvals for liquor and wine instead. TABC should clarify in rules that wineries would not re-submit labels for approval each time the vintage changes. In addition, this recommendation would eliminate the state requirement for chemical analysis of liquor and wine under 7 percent alcohol by volume, which would no longer be required when accepting federal product approvals. This recommendation would not change TABCs current label approval and testing requirements for beer. While all beer sold in Texas must be federally approved, the State's current approval process is needed because Texas has additional requirements for beers to qualify to be sold in Texas.

3.3 Eliminate fees set in statute for the approval of new alcoholic beverage products.

This recommendation would remove the \$25 dollar fee set in statute for the approval of liquor and wine, and add language that the fee should be set to cover the costs of regulation, including implementing a label registration program. This recommendation would also eliminate the fee set in statute for the testing and approval of beer, and the agency would also set this fee to cover the cost of these activities.

3.4 Allow distributors to report retailers who are delinquent in making payments for liquor and wine by electronic mail or other means authorized by the agency.

This recommendation would modify requirements for liquor and wine distributors to report in writing delinquent retailers who have not paid within two days of the maximum 25 days allowed for credit, and allow for alternative means, such as e-mail or fax, for providing this information to the agency.

Management Action

3.5 TABC should work toward phasing out the paper-based delinquency list.

The Commission should move toward reducing the use, and mailing, of the paper-based delinquency list used for administration of credit law. The agency currently provides the list to a few distributors by e-mail, and the agency should try to expand these efforts. Under this recommendation, after March 2006, distributors would receive the list by e-mail, or access the current list maintained on the agency's

Web site to ensure that they do not make deliveries to delinquent retailers. After this date, the agency should provide the paper-based list only on a distributor's request, and charge a fee to recover the costs of providing the list by mail. Distributors could also obtain this information by calling TABC.

Fiscal Implication

Removing container size restrictions for beer could increase fee revenues due to increased product approvals, however reduced wine label approvals may offset these gains. Further, the agency would be able to set its label approval fees to recover the cost of this regulation. The management action directing the agency to phase out the paper-based delinquency list could save \$12,000 a year, once fully implemented.

Responses

Agency

The agency concurs with Recommendations 3.1, 3.2, 3.3, and 3.5 and offers the following comment on Recommendation 3.4.

Recommendation 3.4: The agency currently receives delinquent notices via fax and regular mail. The current technology project has a component of receiving reported delinquencies through an Internet browser based application and should be completed by July 2005. The agency believes electronic submissions meet the statutory "in writing" requirement, and no action is necessary.

(Alan Steen, Administrator – Texas Alcoholic Beverage Commission)

For

Jack F. Raineault, Secretary and Director of Compliance – DIAGEO-Guinness USA, Stamford, CT

Dale C. Szyndrowski, Vice President/Central Region – Distilled Spirits Council of the United States, Washington, D.C.

Supports Recommendation 3.1: Robert C. Hunt, Regional State Government Affairs Manager – Coors Brewing Company, Alpharetta, GA

Supports Recommendation 3.1: Kyle Frazier – representing the National Association of Beverage Importers, Austin

Supports Recommendation 3.1: Sergio Barrios, Industry and Government Affairs Manager – Heineken USA

Supports Recommendation 3.1: Jeffery Seiler, General Manager, Corporate Affairs – Asahi Beer USA, Inc.

Supports Recommendation 3.1: Garry Walker, Director of Operations – Margarita Ice LLC

Supports Recommendation 3.1: Dr. Coady Lapierre

Supports Recommendation 3.1: Robert W. Watts, Regional Manager – Merchant du Vin, Sugar Land

Supports Recommendation 3.1: Michael H. Mitaro, President and CEO – Carlsberg USA, New Canaan, CT

Supports Recommendation 3.2: Gabe Parker – Homestead Winery and Texas Wine and Grape Grower's Association, Grapevine

Supports Recommendations 3.1 and 3.2: Terry Micek, Vice President of Regulatory Affairs – Coors Brewing Company, Golden, CO

Supports Recommendations 3.1 and 3.2: Robert J. Maxwell, President – National Association of Beverage Importers, Rockville, MD

Supports Recommendations 3.1 and 3.2: Thomas Cardella, Vice President of Sales – In Bev USA, Norwalk, CT

Supports Recommendations 3.1 and 3.2: Kirk W. Brown, President – Brazos Chapter of Mothers Against Drunk Driving, College Station

Against

Opposes Recommendation 3.1: Jim Haire – Tyler

Modifications

1. Allow all sizes of distilled spirit containers permitted at the federal level to be approved for sale in Texas. (Dale C. Szyndrowski, Vice President/Central Region – Distilled Spirits Council of the United States, Washington, D.C.)
2. Rather than eliminating all restrictions on beer container sizes, set a maximum size limit. (Susan A. Wagener and Thomas D. Wagener – Mothers Against Drunk Driving and Texans Standing Tall, Porter)
3. Rather than eliminating all restrictions on beer container sizes, allow any brewer whose annual production is overwhelmingly in the 11.2 ounce size to sell that container size in Texas in lieu of the 12 ounce container. (Michael W. McKinney, Executive Vice President – Wholesale Beer Distributors of Texas, Austin)
4. Eliminate the label approval and testing requirements for beer by applying the language in Recommendation 3.2 to beer, as well as liquor and wine. (Mark Bordas, Director of Government Affairs – Anheuser-Busch Companies, Austin; Terry Micek, Vice President of Regulatory Affairs – Coors Brewing Company, Golden, CO; Robert J. Maxwell, President – National Association of Beverage Importers, Rockville, MD; Thomas Cardella, Vice President of Sales – In Bev USA, Norwalk, CT; Yeoryios C. Apallas, Vice President and General Counsel – Pabst Brewing Company)

Staff Comment: Staff is concerned that eliminating the label approval requirements for beer may limit TABC's ability to ensure beer products are over or under 4 percent alcohol by weight. Local option elections to allow beer sales specifically state that only beer under 4 percent may be sold. The federal government does not require beer manufacturers to state the alcohol content of their products on the label. If the State simply accepted the federal label approval, TABC and local communities would have no way of knowing whether higher alcohol content beer is being offered for sale in areas where it is illegal.

5. Eliminate the testing requirements for beer and instead allow manufacturers to submit to TABC laboratory analyses from labs certified by the federal Alcohol and Tobacco Tax and Trade Bureau indicating the alcohol content, rather than having TABC test it. (Jack F. Raineault, Secretary and Director of Compliance – DIAGEO-Guinness USA, Stamford, CT)

6. Remove requirements in state law that malt beverage labels contain the terms "beer," "malt liquor," or "ale," and instead require brewers to state the alcohol content of their product on the label. (Kyle Frazier – representing the National Association of Beverage Importers, Austin; Dr. Coady Lapierre)
7. Abolish all labeling laws for beer. (Matt Sucher)
8. Repeal the definitions of malt beverages based on alcohol content, and instead classify malt beverages based on brewing style. (Robert W. Watts, Regional Manager – Merchant du Vin, Sugar Land)
9. Eliminate the requirement that liquor manufacturers submit samples of all sizes of their products to TABC for testing and label approval. (Dale C. Szyndrowski, Vice President/Central Region – Distilled Spirits Council of the United States, Washington, D.C.; Kyle Frazier – representing the National Association of Beverage Importers, Austin)

Staff Comment: Although not stated explicitly, Recommendation 3.2 would eliminate the requirement that liquor manufacturers submit samples of all sizes of their products by eliminating statutory requirements for testing and label approval for liquor at the state level altogether.

Recommended Action: Adopt Recommendations 3.1 through 3.5 and Modification 5.

Commission Decision: Adopted Recommendations 3.1 through 3.5 and Modification 5.

Issue 4 TABC Lacks an Effective Approach for Resolving Key Marketing Practices Regulatory Issues, Resulting in Inconsistent Enforcement and Unnecessary Costs to the Industry.

Recommendation

Change in Statute

4.1 Require TABC to develop a formal process for making policy decisions regarding marketing practices regulations, and for communicating these decisions to agency staff and the industry.

This recommendation would require the agency to develop a process to improve both its overall decisionmaking processes for marketing practices regulatory issues, and how the agency communicates these decisions to its staff and to the regulated community. In implementing this recommendation, the agency should consider assembling an ad-hoc working group composed of equal representation from the manufacturer, distributor, and retail tiers of the industry for liquor, beer, and wine. On an as-needed basis, TABC staff could convene the group to discuss marketing practices regulatory issues and to provide input for the drafting of marketing practice policies.

As part of this recommendation, the agency should document its decisions by using a precedents manual, or drafting formal advisories, and making these documents available to regional staff, as well as to industry members, though the agency's Web site, electronic mail, and agency publications. In implementing this recommendation, TABC could look to the practices of other state agencies, such as the Texas Commission on Environmental Quality and the Public Utility Commission, for guidance on establishing advisory groups and communicating policy decisions to the industry.

Fiscal Implication

This recommendation would not result in a fiscal impact to the State. The agency should implement this recommendation with existing resources.

Responses

Agency

The agency concurs with this recommendation. (Alan Steen, Administrator – Texas Alcoholic Beverage Commission)

For

Dale C. Szyndrowski, Vice President/Central Region – Distilled Spirits Council of the United States, Washington, D.C.

Gabe Parker – Homestead Winery and Texas Wine and Grape Grower's Association, Grapevine

Michael W. McKinney, Executive Vice President – Wholesale Beer Distributors of Texas, Austin

Against

None received.

Recommended Action: Adopt Recommendation 4.1.

Commission Decision: Adopted Recommendation 4.1.

Issue 5 TABC Lacks a Consistent and Formal Approach to Investigating and Resolving Complaints Against Its Employees.

Recommendations

Change in Statute

5.1 Require TABC to maintain an internal affairs function to ensure fair, effective, and impartial investigations of alleged misconduct by law enforcement officers and other employees.

This recommendation would establish TABC's internal affairs function in statute, with original jurisdiction over all personnel complaints. The internal affairs staff would coordinate and be the central reporting point for, but need not conduct, all employee investigations. The staff may initiate complaint investigations independently, but would require the approval of the Administrator to investigate an employee if no complaint had been made. The Commission, by rule, should 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 Administrator should appoint and directly oversee the head of internal affairs.

5.2 Require the agency to track and report complaint information to the Administrator and the Commission on a regular basis.

This recommendation would require the internal affairs staff to report at least monthly to the Administrator information about the nature and status of each complaint. It would also require the staff to report to the Commission quarterly a summary of information relating to investigations, including analysis of the number, type, and outcome of investigations, trend information, and recommendations to avoid future complaints.

Management Action

5.3 TABC should develop policies and procedures to guide its internal affairs process.

This recommendation would direct TABC to develop policies and procedures governing its internal affairs process that follow guidelines laid out by the Commission. The procedures should include information on each step of the process with timeframes from receipt of complaints, investigation, disciplinary action, and appeal. In addition, the agency would need to develop a schedule of sanctions to guide supervisors in more consistently disciplining employees according to the type and severity of the misconduct. TABC should publish all of this information in its employee handbook so it is available to the entire staff. TABC would also need to develop standard reporting forms as appropriate to guide its internal affairs process, including a standard letter to complainants and respondents, and a standard reporting form that ensures complaint investigators go through each step of the process outlined in the employee manual in a timely manner. The agency should also make its personnel complaint form available on its Web site and in its employee manual.

As part of this recommendation, the agency should establish an early warning system to keep division directors informed about personnel complaints in writing. The internal affairs staff should analyze complaints at least annually to identify individual employees or units that have multiple complaints filed against them. Based on this information, the supervisor should work with executive management to design a plan for corrective action, such as specialized training, to address the problems. Additionally,

the internal affairs staff should update division directors on the status of complaints affecting their employees in writing at least monthly to keep them informed and to ensure investigations are conducted in a timely manner.

Fiscal Implication

These recommendations would not have a fiscal impact to the State. They would require the agency to devote additional resources to establish internal affairs policies and procedures, including the potential need for a computerized tracking system, but this could be achieved with existing resources.

Responses

Agency

The agency concurs with these recommendations and offers the following modification to Recommendation 5.1.

Agency Modification

1. If a complaint is initiated by staff, the approval of initiation of an investigation could come from the division director level and above, rather than requiring the approval of the Administrator.
(Alan Steen, Administrator – Texas Alcoholic Beverage Commission)

For

None received.

Against

None received.

Recommended Action: Adopt Recommendations 5.1 through 5.3 and Modification 1.

Commission Decision: Adopted Recommendations 5.1 through 5.3 and Modification 1.

Issue 6 Texas Has a Continuing Need for the Texas Alcoholic Beverage Commission.

Recommendation

Change in Statute

6.1 Continue the Texas Alcoholic Beverage Commission for 12 years.

Fiscal Implication

If the Legislature continues the current functions of the Texas Alcoholic Beverage Commission, using the existing organizational structure, the agency's annual appropriation of approximately \$30 million would continue to be required for its operation. Licensing fees and surcharges the agency collects from the alcoholic beverage industry more than cover TABC's entire appropriation.

Responses

Agency

The agency concurs with this recommendation. (Alan Steen, Administrator – Texas Alcoholic Beverage Commission)

For

Dale C. Szyndrowski, Vice President/Central Region – Distilled Spirits Council of the United States, Washington, D.C.

Robert J. Maxwell, President – National Association of Beverage Importers, Rockville, MD

Gabe Parker – Homestead Winery and Texas Wine and Grape Grower's Association, Grapevine

Michael W. McKinney, Executive Vice President – Wholesale Beer Distributors of Texas, Austin

Richard W. Donley, President – The Beer Alliance of Texas, L.L.C., Austin

Fred Marosko, Executive Director – Texas Package Stores Association, Austin

Robert H. Sparks, Jr., Executive Director – Licensed Beverage Distributors, Austin

Against

None received.

Modification

1. Transfer TABC's tax collection functions to the Office of the Comptroller of Public Accounts. (R. Barry Hobrecht – Balls Hamburgers Private Club, Dallas)

Recommended Action: Adopt Recommendation 6.1.

Commission Decision: In lieu of Recommendation 6.1, the Commission voted to continue TABC for 6 years, until 2011.

ACROSS-THE-BOARD RECOMMENDATIONS

Texas Alcoholic Beverage Commission	
Recommendations	Across-the-Board Provisions
Do Not Apply	1. Require public membership on the agency’s policymaking body.
Update	2. Require provisions relating to conflicts of interest.
Update	3. Require unbiased appointments to the agency’s policymaking body.
Update	4. Provide that the Governor designate the presiding officer of the policymaking body.
Update	5. Specify grounds for removal of a member of the policymaking body.
Apply	6. Require training for members of the policymaking body.
Apply	7. Require separation of policymaking and agency staff functions.
Already in Statute	8. Provide for public testimony at meetings of the policymaking body.
Modify	9. Require information to be maintained on complaints.
Apply	10. Require the agency to use technology to increase public access.
Apply	11. Develop and use appropriate alternative rulemaking and dispute resolution procedures.

Recommended Action: Adopt staff recommendations.

Commission Decision: Adopted staff recommendations.

NEW ISSUES

New Issues

The following issues were raised in addition to the issues raised in the staff report. The issues are numbered sequentially to follow the staff's recommendations.

7. Revise TABC's regulatory structure to focus the agency's resources on public health and safety issues; increase competition within the alcoholic beverage industry; and simplify the licensing requirements. (Howard Wolf, Public Member – Sunset Advisory Commission)
8. Abolish provisions in the Alcoholic Beverage Code related to marketing practices and retailer supervision, and instead authorize TABC to adopt and enforce regulations on those subjects similar to the regulations promulgated by the Alcohol and Tobacco Tax and Trade Bureau for liquor, beer, and wine. (Howard Wolf, Public Member – Sunset Advisory Commission)
9. The Legislature should establish a joint interim committee to study revision of the regulatory structure of alcoholic beverages in Texas. The study should include at least the following:
 - A. placing all responsibility for assessing and collecting taxes with the Comptroller;
 - B. licensing only persons or entities that 1) produce, manufacture, brew or distill regulated substances or 2) sell regulated substances to the public;
 - C. placing all responsibility for the issuance and renewal of licenses with the Texas Department of Licensing and Regulation;
 - D. charging the TABC with enforcing all laws, rules, and regulations applicable to alcoholic beverages to 1) foster, protect, and maintain the health and safety of the citizens of the State of Texas and 2) promote open markets and competition in the sale of alcoholic beverages; and
 - E. abolishing provisions in the Code related to marketing practices and retailer independence, and instead authorize the TABC to adopt and enforce regulations on those subjects similar to the regulations promulgated by the Alcohol and Tobacco Tax and Trade Bureau for liquor, beer, and wine.

The joint committee shall report its findings and recommendations to the Governor, Lieutenant Governor, and Speaker of the House of Representatives by January 2007.

(Howard Wolf, Public Member – Sunset Advisory Commission)

10. Abolish the Alcoholic Beverage Code and rewrite it to be easier to understand and use. (Allan Shivers, Jr. – former Chair of TABC; Gary Huddleston, Consumer Affairs Manager – Kroger Company and Texas Retailers Association, Irving; William Farquhar – Texas Alcoholic Beverage Commission Agents Association, Houston; Kirk W. Brown, President – Brazos Chapter of Mothers Against Drunk Driving, College Station)
11. If the Alcoholic Beverage Code is revised, violations related to advertising, cash and credit law, and marketing practices should be eliminated. (William Farquhar – Texas Alcoholic Beverage Commission Agents Association, Houston)

Licensing

12. Amend the Alcoholic Beverage Code to allow licenses to be renewed every two years, rather than every year. To avoid any revenue loss to the State, licensees would pay double the current annual licensing fees and surcharges every two years. (Alan Steen, Administrator – Texas Alcoholic Beverage Commission; Robert J. Maxwell, President – National Association of Beverage Importers, Rockville, MD; Thomas Cardella, Vice President of Sales – In Bev USA, Norwalk, CT; Gary Huddleston, Consumer Affairs Manager – Kroger Company and Texas Retailers Association, Irving)
13. Allow licensees the option of renewing their licenses every two, three, or five years, rather than every year. (Dale C. Szyndrowski, Vice President/Central Region – Distilled Spirits Council of the United States, Washington, D.C.)
14. Allow licenses to be renewed every two years, but only for establishments with no violations. (Susan A. Wagener and Thomas D. Wagener – Mothers Against Drunk Driving and Texans Standing Tall, Porter)
15. Amend the Alcoholic Beverage Code to apply the current processes for obtaining and renewing a liquor license to beer licenses so that the two processes are the same. This recommendation would eliminate the need for county judges to hold hearings on beer license applications and renewals. This recommendation would also transfer the function of collecting beer licensing fees, and associated administrative fees, from county tax assessor-collectors to TABC. (Alan Steen, Administrator – Texas Alcoholic Beverage Commission)
16. Amend the Alcoholic Beverage Code to consolidate privileges granted by subordinate licenses with the privileges granted by primary licenses to reduce the number of licenses required at one business location. (Alan Steen, Administrator – Texas Alcoholic Beverage Commission; Richard W. Donley, President – The Beer Alliance of Texas, L.L.C., Austin)
17. Amend the Alcoholic Beverage Code to clearly authorize contract brewing by allowing the agency to issue licenses to different operators and owners for the same manufacturing location. (Alan Steen, Administrator – Texas Alcoholic Beverage Commission; Kyle Frazier – representing the National Association of Beverage Importers, Austin; Terry Micek, Vice President of Regulatory Affairs – Coors Brewing Company, Golden, CO; Robert J. Maxwell, President – National Association of Beverage Importers, Rockville, MD; Thomas Cardella, Vice President of Sales – In Bev USA, Norwalk, CT; Garry Walker, Director of Operations – Margarita Ice LLC; Yeoryios C. Apallas, Vice President and General Counsel – Pabst Brewing Company)
18. If contract brewing is authorized, require contract brewers to be appropriately bonded. (Michael W. McKinney, Executive Vice President – Wholesale Beer Distributors of Texas, Austin)
19. Allow multiple wineries to operate in a single location. (Gabe Parker – Homestead Winery and Texas Wine and Grape Grower’s Association, Grapevine)

20. Eliminate the requirement that foreign brewers be licensed and instead create a license for U.S.-based beer importers. Require importers to pay a licensing fee for each foreign brewer they represent so as to avoid any loss in revenue to the State. (Jack F. Raineault, Secretary and Director of Compliance – DIAGEO-Guinness USA, Stamford, CT; Kyle Frazier – representing the National Association of Beverage Importers, Austin; Dale C. Szyndrowski, Vice President/Central Region – Distilled Spirits Council of the United States, Washington, D.C.; Robert J. Maxwell, President – National Association of Beverage Importers, Rockville, MD; Thomas Cardella, Vice President of Sales – In Bev USA, Norwalk, CT)
21. Eliminate the requirement that beer importers hold a regional forwarding center permit for every manufacturer whose product is stored in their Texas forwarding center facility. Instead, require the importer to hold one permit for each facility, but pay a license fee based on the number of manufacturers whose products are stored at a facility. (Kyle Frazier – representing the National Association of Beverage Importers, Austin)
22. Provide for online issuance of licenses, automatic renewals, and online confirmation of renewals. Provide for online payment of license fees. Speed up time frames for sending out certificates. (Gary Huddleston, Consumer Affairs Manager – Kroger Company and Texas Retailers Association, Irving)
Staff Comment: TABC is currently working to automate its licensing process and plans for the new system to be online at the beginning of 2005. This automation should allow the agency to effectively streamline its licensing process without any change in law.
23. Change posting requirements for alcoholic beverage licenses from 60 days before applying to 60 days before issuance. (Gary Huddleston, Consumer Affairs Manager – Kroger Company and Texas Retailers Association, Irving)
24. Allow individual grocery stores to receive a separate type of wine permit if the local community does not allow retailers to carry higher alcohol content wines such as sherries and ports. (Gary Huddleston, Consumer Affairs Manager – Kroger Company and Texas Retailers Association, Irving)
25. Streamline the process for transferring an alcoholic beverage license to the buyer when a business is sold. This process would include a short application form with basic personal information about the buyer, with an extended form following within 10 days. Once TABC completes a background and credit check of the buyer, the agency must issue a 90 day temporary license. The buyer would be required to secure a performance bond before TABC issues the temporary permit. During the 90 days of the temporary permit, the buyer must resolve any outstanding problems with the business at the local level. The seller should not be required to surrender the old license until the new license is issued. (Bob L. Wyatt, President, and Sandy Newkham, Board Member – Texas Association of Business Brokers, North Richland Hills)
26. Clarify the Alcoholic Beverage Code to ensure people with non-deportable immigration status can hold a license. (Winston Krause, General Counsel – Greater Austin Merchants Association, Austin)

Business Practices

27. Create a large retailer beer and wine off-premise permit. A large retailer would be defined based on the percentage of alcohol sales, retail square footage, or number of permits. Large retailers would be allowed to: negotiate volume discounts with their suppliers; return excess product for credit to their suppliers; and pay for their product using credit terms of 18 days and electronic fund transfers. (Mary Svoboda, Director of Compliance – Wal-Mart Stores, Inc., Bentonville, AR)
28. Create a large retailer permit. Retailers would qualify for this permit based on their square footage, percent of alcohol sales, and/or number of TABC licences or permits held. A holder of a large retailer permit would be allowed to:
- purchase beer and wine at a price based on total quantity bought by all its retail establishments;
 - return quantities of beer and wine in excess of a predetermined quantity of overstock for credit from distributors and wholesalers;
 - make a claim for reimbursement for beer and wine product damaged on retail premises by a vendor, distributor, or wholesaler;
 - pay for beer purchases on terms similar to wine purchases;
 - pay for beer and wine purchases via electronic funds transfer;
 - utilize e-learning technology to provide Alcohol Seller Training to its employees; and
 - sample beer and wine on premises.
- (Gregorio Flores III, Director of Legislative Affairs – H-E-B, San Antonio)
29. Eliminate restrictions on ownership and permitting of package stores to allow corporations to own and operate package stores as separate business entities. (Mary Svoboda, Director of Compliance – Wal-Mart Stores, Inc., Bentonville, AR; Gregorio Flores III, Director of Legislative Affairs – H-E-B, San Antonio)
30. Abolish the cash law governing payments for beer deliveries and the credit law governing payments for liquor deliveries. (Allan Shivers, Jr. – former Chair of TABC)
31. Abolish the cash law governing payments for beer deliveries. (Gregorio Flores III, Director of Legislative Affairs – H-E-B, San Antonio)
32. Eliminate requirements that a third party intermediary be used in electronic funds transfers between retailers and distributors. (Gary Huddleston, Consumer Affairs Manager – Kroger Company and Texas Retailers Association, Irving)
- Staff Comment: Neither TABC statutes nor rules require third parties in electronic funds transfers.
33. Allow retailers to send beer or wine back to the distributor when there is an overage. (Gary Huddleston, Consumer Affairs Manager – Kroger Company and Texas Retailers Association, Irving)

34. Allow the holder of a cartage permit to transfer products between grocery stores without having to transfer them back to the hub store, similar to the privileges package stores currently have. (Gary Huddleston, Consumer Affairs Manager – Kroger Company and Texas Retailers Association, Irving)
35. Allow for seller-only training for individuals who do not serve alcoholic beverages, and allow for training to include information on tobacco sales. (Gary Huddleston, Consumer Affairs Manager – Kroger Company and Texas Retailers Association, Irving)
36. Remove restrictions on the permitted hours for delivery of alcoholic beverages. (Gary Huddleston, Consumer Affairs Manager – Kroger Company and Texas Retailers Association, Irving; Gregorio Flores III, Director of Legislative Affairs – H-E-B, San Antonio)
37. Allow retailers to receive reimbursement from distributors for beer that is damaged by the distributor's employee after the retailer has paid for the product. (Gary Huddleston, Consumer Affairs Manager – Kroger Company and Texas Retailers Association, Irving)
38. Allow all off-premise permit holders to be eligible for volume discounts for beer purchased from distributors. (Gary Huddleston, Consumer Affairs Manager – Kroger Company and Texas Retailers Association, Irving)
39. Allow retailers to read a customer's date of birth from a Texas driver's license using electronic means. (Gary Huddleston, Consumer Affairs Manager – Kroger Company and Texas Retailers Association, Irving)

Staff Comment: Section 109.61 of the Alcoholic Beverage Code specifically allows a retailer to access electronically readable information on a driver's license for the purpose of preventing the retailer from committing an offense under the Code, such as selling alcohol to a minor. Section 109.61 also states that a retailer may not retain or market that information.

40. Allow scan-based trading for delivery of alcoholic beverages from distributors to improve the efficiency of deliveries, similar to processes used for delivery of other grocery products. (Gregorio Flores III, Director of Legislative Affairs – H-E-B, San Antonio)

Marketing Practices

41. Eliminate the requirement in law that sweepstakes be held in 30 or more states for them to be permissible in Texas. (Jack F. Raineault, Secretary and Director of Compliance – DIAGEO-Guinness USA, Stamford, CT; Robert C. Hunt, Regional State Government Affairs Manager – Coors Brewing Company, Alpharetta, GA; Kyle Frazier – representing the National Association of Beverage Importers, Austin; Dale C. Szyndrowski, Vice President/Central Region – Distilled Spirits Council of the United States, Washington, D.C.; Terry Micek, Vice President of Regulatory Affairs – Coors Brewing Company, Golden, CO)
42. Allow manufacturer representatives and representatives from nonprofit organizations to whom manufacturers have donated alcoholic beverages to pick up products from wholesaler warehouses, rather than requiring them to purchase the products from retail establishments. (Jack F. Raineault, Secretary and Director of Compliance – DIAGEO-Guinness USA, Stamford, CT; Dale C. Szyndrowski, Vice President/Central Region – Distilled Spirits Council of the United States, Washington, D.C.)

43. Eliminate licensing requirements for promotional representatives who work for manufacturers and wholesalers and instead create separate licensing requirements for promotional companies and their employees. (Dale C. Szyndrowski, Vice President/Central Region – Distilled Spirits Council of the United States, Washington, D.C.)
44. Allow manufacturers' sales representatives to carry bottles of wine and liquor for the purpose of providing samples. Eliminate the requirement that agents only carry empty bottles. (Kyle Frazier – representing the National Association of Beverage Importers, Austin)
45. Allow manufacturers' sales representatives to visit retailers without being accompanied by a wholesaler representative. (Dale C. Szyndrowski, Vice President/Central Region – Distilled Spirits Council of the United States, Washington, D.C.; Kyle Frazier – representing the National Association of Beverage Importers, Austin)
46. Allow manufacturers to advertise promotional or sponsorship events held on retail premises. (Dale C. Szyndrowski, Vice President/Central Region – Distilled Spirits Council of the United States, Washington, D.C.)
47. Remove the 35,000 gallon limit on sales of wine from a winery's tasting room. (Gabe Parker – Homestead Winery and Texas Wine and Grape Grower's Association, Grapevine)
48. Allow holders of non-resident sellers permits (i.e. out-of-state wineries) to conduct wine tastings in off-premise locations where wine and beer are sold. (Sharon Hull, Consultant – representing the Wine Institute, Austin; Charles E. McGrigg, Central States Counsel – Wine Institute, Weston, MO; Gary Huddleston, Consumer Affairs Manager – Kroger Company and Texas Retailers Association, Irving)
49. Allow wineries and breweries to provide customer coupons for discounts off the purchase of companion food products. (Gary Huddleston, Consumer Affairs Manager – Kroger Company and Texas Retailers Association, Irving)
50. Allow for promotions using customer loyalty cards. (Gary Huddleston, Consumer Affairs Manager – Kroger Company and Texas Retailers Association, Irving)
51. Change restrictions on signage placement. (Gary Huddleston, Consumer Affairs Manager – Kroger Company and Texas Retailers Association, Irving)

Public Safety/Enforcement

52. Increase penalties for drunk driving. (Allan Shivers, Jr. – former Chair of TABC)
53. Require restaurants to display health warning signs to inform and remind the public of the risks of drinking during pregnancy. (Jim Haire – Tyler)
54. Prohibit state agencies from advertising beer in schools. (Jim Haire – Tyler)
55. Require any retail establishment whose primary income is from the sale or service of alcohol to hold dram shop liability insurance in order to receive a license. (Susan A. Wagener and Thomas D. Wagener – Mothers Against Drunk Driving and Texans Standing Tall, Porter)

56. Require mandatory seller/server training for any establishment selling or serving alcohol. (Susan A. Wagener and Thomas D. Wagener – Mothers Against Drunk Driving and Texans Standing Tall, Porter; Kirk W. Brown, President – Brazos Chapter of Mothers Against Drunk Driving, College Station)
57. Prohibit excessive amounts in one serving of an alcoholic beverage that puts a consumer over the legal limit, such as four ounce shots and 48 ounce containers. (Susan A. Wagener and Thomas D. Wagener – Mothers Against Drunk Driving and Texans Standing Tall, Porter)
58. Redefine age 21 so that alcoholic beverages may only be served at opening hours on the day of turning 21 years of age, rather than at midnight. (Susan A. Wagener and Thomas D. Wagener – Mothers Against Drunk Driving and Texans Standing Tall, Porter)
59. Require beer keg registration in order to tie the purchase of alcohol for minors to the adult purchasing the alcohol. (Susan A. Wagener and Thomas D. Wagener – Mothers Against Drunk Driving and Texans Standing Tall, Porter; Steve Ross, Communications Director – Texans Standing Tall, Austin; Kirk W. Brown, President – Brazos Chapter of Mothers Against Drunk Driving, College Station)
60. Establish minimum prices at which drinks can be sold, perhaps the actual cost of the drink. (Kirk W. Brown, President – Brazos Chapter of Mothers Against Drunk Driving, College Station)
61. Eliminate happy hour practices. (Kirk W. Brown, President – Brazos Chapter of Mothers Against Drunk Driving, College Station)

Other

62. Amend the Alcoholic Beverage Code to require forfeiture suits filed for seized alcoholic beverages to be conducted according to the provisions of Chapter 59 of the Code of Criminal Procedure. Amend Section 59.01 of the Code of Criminal Procedure to include “illicit beverage” as defined by Section 1.04 (4) of the Alcoholic Beverage Code, in the definition of contraband subject to seizure and forfeiture. (Alan Steen, Administrator – Texas Alcoholic Beverage Commission)
63. If the Alcoholic Beverage Code is amended regarding forfeiture, any change in statute should make it clear that seized alcoholic beverages deemed by the manufacturer and/or wholesaler to be inappropriate for sale to a consumer should be destroyed, including those that are damaged or beyond the “code date” affixed by the manufacturer. (Michael W. McKinney, Executive Vice President – Wholesale Beer Distributors of Texas, Austin)

Staff Comment: TABC’s current practice is to destroy seized alcoholic beverages that they are not able to sell back to a wholesaler or retailer. This recommendation would clarify that practice in statute.

64. Direct the agency to provide clarification to licensees on the procedures for handling and resolving protests against a license upon application or renewal. (Amy Severson – Sevy’s Grill, Dallas)

65. Allow the Texas Commissioner of Agriculture to waive or modify the requirement that Texas wines be composed of 75 percent Texas grapes or juice in the case of a Texas crop failure. (Gabe Parker – Homestead Winery and Texas Wine and Grape Grower’s Association, Grapevine)
66. Create an advisory committee to work with TABC. The committee should be composed of seven to 10 members with a majority membership of convenience store owners. The committee should meet quarterly and one representative each from the Governor’s and Lt. Governor’s offices should attend. (Sada Cumber – Austin)

Recommended Action: Adopt New Issues 62 and 63.

Commission Decision: Adopted New Issues 9, 12, 14, 22, 62 and 63. The Commission also adopted New Issue 53, as modified by Representative Truitt, to require TABC to establish rules requiring establishments selling alcohol for on-premise consumption to display health warning signs on restroom doors to inform and remind the public of the risks of drinking alcohol during pregnancy.