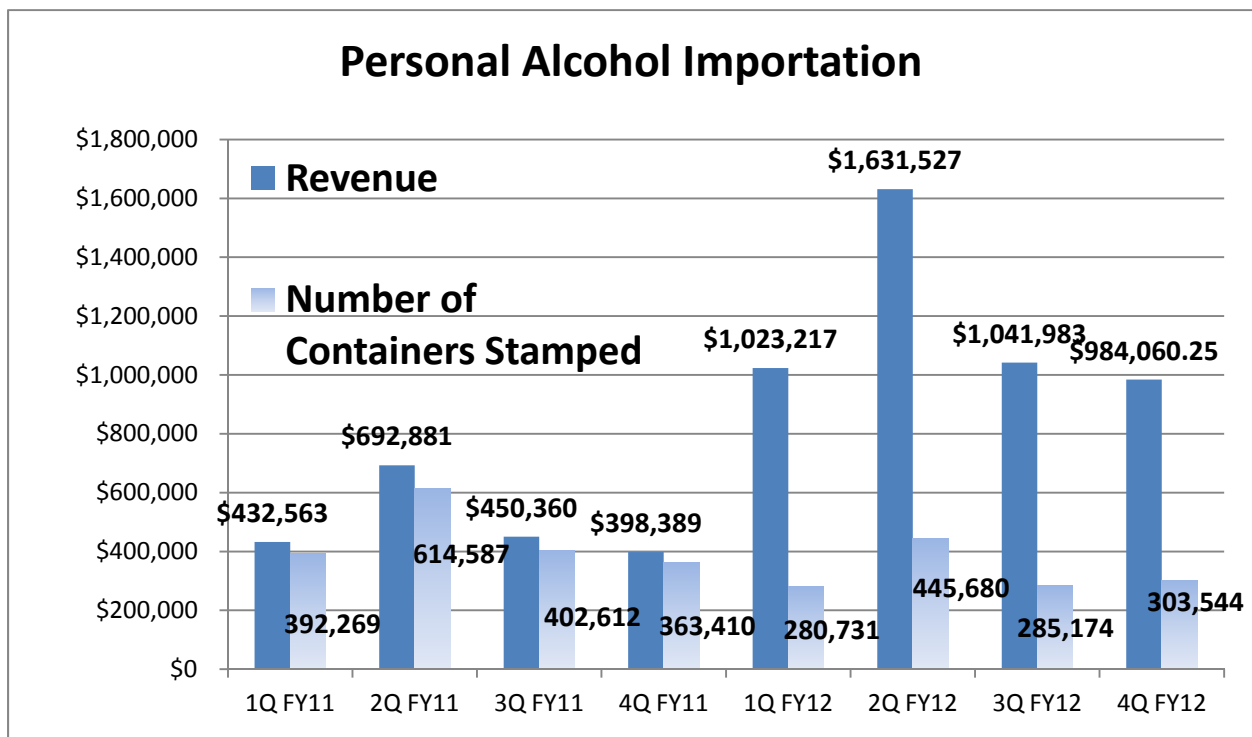


Texas Alcoholic Beverage Commission
Quarterly Update to the Senate Business and Commerce Committee
October 4, 2012

IMPLEMENTATION OF SIGNIFICANT LEGISLATION

TABC has implemented, without problems or concerns, all legislation that went into effect following the 82nd Legislative Session. The most significant bills are as follows:

HB1936 by Gutierrez relating to importation and shipment of alcoholic beverages for personal consumption. TABC implemented the new importation limits and fees on September 1, 2011. There were a few complaints about the increased fee, but not many as the agency had begun posting notices and handing out fliers about the changes earlier in the summer. We have noted an increase in half gallon containers being imported and a decrease in miniature bottles being imported. Following is a comparison of alcoholic beverage importations from the first three quarters of FY 2012 to the same time periods of FY 2011.



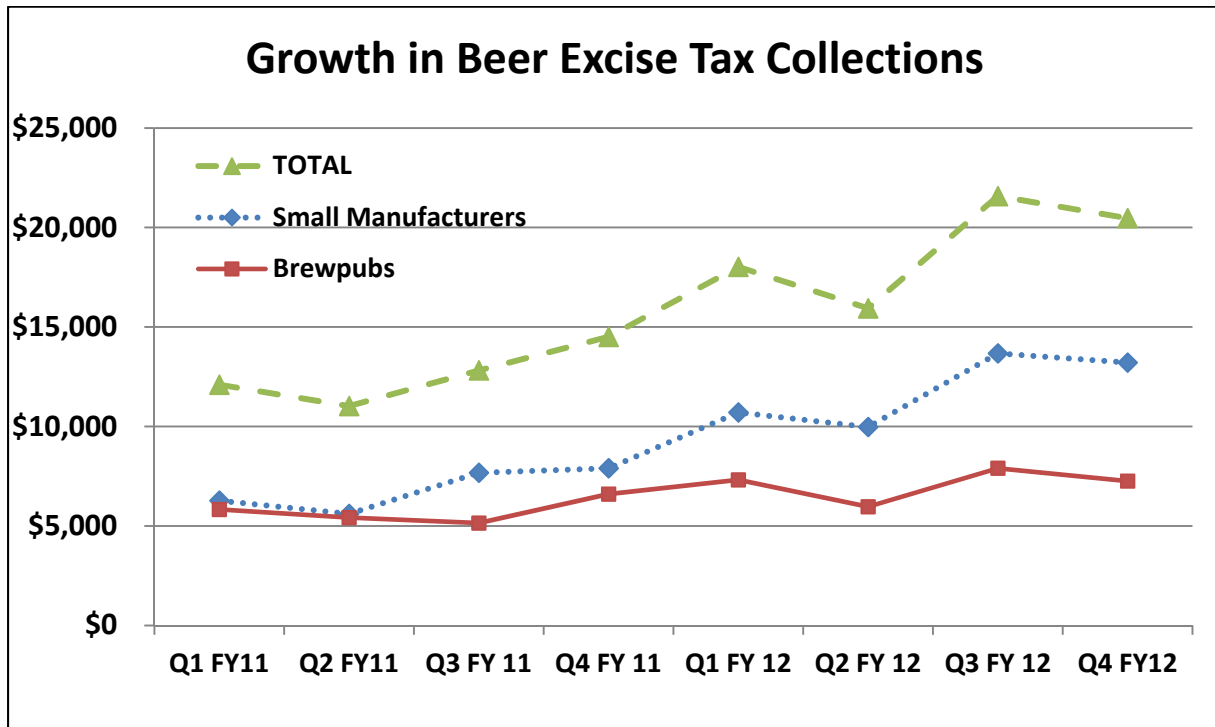
SB1331 by Watson (and HB3474 by Gallego) relating to criminal offenses regarding the possession or consumption of alcoholic beverages by a minor and providing alcoholic beverages to a minor. The 911 Lifeline Legislation went into effect on September 1, 2011. TABC has been working to educate the public about the danger of alcohol poisoning and about the 911 Lifeline Legislation. Correspondence was sent to 75 public and private universities in Texas notifying university board chairs, presidents and police chiefs of the new law and offering assistance to educate faculty,

staff, police departments and students. Several universities contacted TABC for such assistance. TABC has used the social media outlets Facebook and Twitter to educate the public.

The agency recently released two PSAs that focus on the tragic consequences of alcohol poisoning. The two new PSAs titled "Door" and "Marker" highlight two young adults' choices during a night of partying. These videos show that it only takes one decision for someone to go from "drunk" to suffering from alcohol poisoning. TABC's new YouTube channel hosts these two PSAs along with several others from the agency's Education and Prevention Division.

TABC continues to produce educational materials related to alcohol poisoning and the 911 Lifeline Legislation.

HB2582 by Murphy relating to the repeal of the partial tax exemption for certain beer. Effective September 1, 2011, HB2582 repealed the 25% excise tax exemption previously given to Texas beer manufacturers and brewpubs whose annual production of beer in this state does not exceed 75,000 barrels. In addition to increasing excise taxes gathered from small manufacturers and brewpubs, HB2582 may have reduced the chance of potential litigation.



OTHER SIGNIFICANT EVENTS

TABC Hires New Assistant Administrator.

Ed Swedberg joined TABC as the agency's Assistant Administrator on September 17, 2012. Swedberg is responsible for overseeing the agency's day-to-day operations while the Administrator focuses on external issues.

In his first career, Swedberg served nearly 24 years on active duty in the U.S. Air Force, including several command assignments, and was awarded numerous military decorations. He retired as a Colonel in 2006. Swedberg began working for the State of Texas in 2007 as the Assistant Director of Innovation and Technology for the Texas State Comptroller of Public Accounts Office. Most recently he worked as a Deputy Executive Director at the Texas Department of Information Resources.

Swedberg holds a Bachelor of Science in Electrical Engineering from the University of Texas at Austin and a Master of Science in Electrical Engineering from Northrop University. He also earned Master's degrees from U.S. Army Command and General Staff College in Military Arts and Science and from Air War College in Strategic Studies.

New Chief of Field Operations announced.

TABC's Chief of Field Operations position has been vacant since the retirement of Joel Moreno at the end of May. On October 4, Mr. Swedberg announced the hiring of Robert Saenz as the new Chief of Field Operations. Chief Saenz has been employed with TABC since 1993. His most recent assignment was as the Regional Director of the Coastal Bend Region in Houston. He assumed that position in August 2011. Prior to serving as Regional Director, he served as Captain in the Austin District Office for four years. In addition, he has been stationed in Galveston, Del Rio and Odessa.

Chief Saenz graduated from Texas State University with a degree in Criminal Justice. After graduation, Saenz was employed as a patrol officer and detective with the Del Rio Police Department prior to his employment with TABC. He holds a Master Peace Officer Certificate and has been a licensed TCLEOSE instructor since 1997. He is a member of the Central Texas Police Chiefs and Sheriffs' Association.

TABC involved in multi-agency criminal investigation involving Austin bars.

TABC is seeking cancellation of nine permits held by Hussein Ali "Mike" Yassine, pending a hearing held before an administrative law judge at the State Office of Administrative Hearings (SOAH). TABC has been involved in a multi-agency state and federal criminal investigation involving these TABC-licensed establishments since 2011, and the permits were suspended in March 2012. The August hearing was delayed because Yassine was unable to attend. He is being held on federal charges involving firearms, drug trafficking and money laundering. Yassine's attorney stated that a bench warrant for Yassine to attend an administrative hearing was unlikely.

The criminal trial began in Austin on October 1st. The SOAH hearing will be rescheduled at the completion of the criminal trial.

TABC reports to LAP on House Interim Charge.

In July 2012, TABC reported to the House Committee on Licensing and Administrative Procedures on the House Interim Charge: Review the Alcoholic Beverage Licensing and Permitting Process. Explore Possible Reforms with Interested Stakeholders to Streamline and Improve the Process.

Inconsistencies in the Alcoholic Beverage Code have resulted in inefficiencies in the alcoholic beverage licensing/permitting process. Two separate chapters in the Code govern two very different application processes for liquor permits and for beer licenses. Chapter 61 Provisions Generally Applicable to Licenses applies to beer retailer licenses, beer distributors, beer manufacturers, and wine and beer retailer permits. Chapter 11 Provisions Generally Applicable to Permits applies to permits involving the production, distribution and retail sale of ale / malt liquor, wine, and distilled spirits (collectively referred to as “liquor.”)

In addition to creating inefficiencies, the differences in these chapters are confusing to the public as well as other government officials who play a part in the process. There are arguments to be made for which path is better, often based on the perspective of the party making the argument. One thing is for certain, to have only one path in the licensing/permitting process would be simpler, more consistent and more efficient.

Below are the most significant differences between these two chapters.

Beer Licenses and Wine and Beer Retailer Permits	Liquor Permits (except Wine and Beer Retailer Permits)
County Judge Hearing Requirement	No Hearing Requirement
Fees and Surcharges Initially Paid to County Tax Assessor Collector. (TABC bills the county the month following the license or permit issuance.)	Fees and Surcharges Paid Directly to TABC
Application Notice – County Clerk Responsible	Application Notice – Applicant Responsible
Protests Heard by County Judge	Protests Heard by State Office of Administrative Hearings (SOAH)

Senator Van de Putte hosts Alcoholic Beverage Code workgroup.

Over the last few years, the Alcoholic Beverage Code has been the subject of several lawsuits asserting that certain alcohol statutes are unconstitutional – some because of the Interstate Commerce Clause (showing preference to in-state products or businesses vs. out-of-state), the First Amendment (advertising restrictions without state’s interest), or 14th Amendment (Equal Protection: treating different products or permits differently than others without state’s interest).

Senator Leticia Van de Putte volunteered to host a series of workgroup meetings, reviewing and discussing laws that could result in a suit and looking for ways to “level

the playing field.” Senator Van de Putte has brought together stakeholders from virtually every aspect of the alcoholic beverage industry: brewers, brewpubs, distillers, grape growers, wineries, wholesalers, distributors, package stores, grocery stores, convenience stores, bars and restaurants. One of the focal points of these meetings has been possible ways to expand the authority of Texas brewers, brewpubs and distillers to promote economic growth and to more closely mirror the authority of Texas wineries.

It has been an unprecedented opportunity to participate in a dialogue on a wide range of ideas from all parts of the industry. No agreements or decisions have been made. However, any legislation that does result from these discussions is expected to boost small businesses and/or minimize the risk of losing lawsuits, which can result in alcohol policy being crafted by federal judges instead of the state legislature.

Anyone who is interested in participating in these discussions, or providing input in another format, is welcome and invited to contact Amber Hausenfluck in Senator Van de Putte’s Capitol Office at amber.hausenfluck@senate.state.tx.us.