

ALCOHOLIC BEVERAGE CODE
TITLE 3. LICENSES AND PERMITS
SUBTITLE A. PERMITS
CHAPTER 28. MIXED BEVERAGE PERMIT

Sec. 28.01. AUTHORIZED ACTIVITIES.

(a) The holder of a mixed beverage permit may sell, offer for sale, and possess mixed beverages, including distilled spirits, for consumption on the licensed premises:

(1) from sealed containers containing not less than one fluid ounce nor more than two fluid ounces or of any legal size; and

(2) from unsealed containers.

(b) The holder of a mixed beverage permit for an establishment in a hotel may deliver mixed beverages, including wine and malt beverages, to individual rooms of the hotel or to any other location in the hotel building or grounds, except a parking area or the licensed premises of another alcoholic beverage establishment, without regard to whether the place of delivery is part of the licensed premises. A permittee in a hotel may allow a patron or visitor to enter or leave the licensed premises, even though the patron or visitor possesses an alcoholic beverage, if the beverage is in an open container and appears to be possessed for present consumption.

(c) The holder of a mixed beverage permit may also:

(1) purchase wine and malt beverages containing alcohol of not more than 24 percent by volume in containers of any legal size from any permittee or licensee authorized to sell those beverages for resale; and

(2) sell the wine and malt beverages for consumption on the licensed premises.

Acts 1977, 65th Leg., p. 429, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 1182, ch. 453, Sec. 4, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 111, ch. 70, Sec. 1, eff. Aug. 27, 1979.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 50 (H.B. [2016](#)), Sec. 2, eff.

September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 119, eff. September 1, 2021.

Sec. 28.03. INFORMATION REQUIRED OF APPLICANTS. In addition to the information required of applicants for permits under this code, the applicant for a mixed beverage permit must file with his original and renewal application a sworn statement in a form prescribed by the commission or administrator containing the following information:

(1) the name and residential address of the lessor of the premises;

(2) the name and address of the lessee of the premises;

(3) the amount of monthly rental on the premises and the date of expiration of the lease;

(4) whether the lease or rental agreement includes furniture and fixtures;

(5) whether the business is to be operated under a franchise and, if so, the name and address of the franchisor;

(6) the name and address of the accountant of the business;

(7) a list of all bank accounts, including account numbers, used in connection with the business; and

(8) any information required by the commission or administrator relevant to the determination of all persons having a financial interest of any kind in the granting of the mixed beverage permit.

Acts 1977, 65th Leg., p. 430, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 28.04. CHANGE IN CORPORATE CONTROL. (a) A mixed beverage permit held by a corporation may not be renewed if the commission or administrator finds that legal or beneficial ownership of over 50 percent of the stock of the corporation has changed since the time the original permit was issued.

(b) The commission or administrator may adopt reasonable rules and regulations in accordance with the provisions of this section.

(c) A corporation which is barred from renewing a permit because of this section may file an application for an original permit and may be issued an original permit if otherwise qualified.

(d) This section does not apply to a change in corporate control:

(1) brought about by the death of a shareholder if the shareholder's surviving spouse or descendants are the shareholder's successors in interest; or

(2) brought about when legal or beneficial ownership of over 50 percent of the stock of the corporation has been transferred:

(A) to a person who possesses the qualifications required of other applicants for permits and is currently an officer of the corporation and has been an officer of the corporation ever since the date the original permit was issued; or

(B) if the permittee notifies the commission, on completed forms and attachments prescribed by the commission, of the proposed transfer prior to the date the transfer is to become effective and the commission does not find that circumstances exist that would be grounds for the denial of a renewal of the permit under Section 11.46 and provided the ownership of the corporation immediately after the transfer satisfies the requirements of this code.

(e) Nothing in this section shall be construed to grant any property right to any permit or construed to prevent the commission from suspending or canceling a permit at any time after notice and hearing for a violation of this code.

Acts 1977, 65th Leg., p. 430, ch. 194, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1987, 70th Leg., ch. 303, Sec. 6, eff. June 11, 1987; Acts 1989, 71st Leg., 1st C.S., ch. 36, Sec. 3, eff. Oct. 18, 1989; Acts 1993, 73rd Leg., ch. 934, Sec. 34, eff. Jan. 1, 1994.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 986 (S.B. 1217), Sec. 4, eff. September 1, 2007.

Sec. 28.05. RENEWAL OF PERMIT BY DESCENDANT OR SURVIVING SPOUSE. If the surviving spouse or surviving descendant of a holder

of a mixed beverage permit qualifies as the successor in interest to the permit as provided in Section 11.10 of this code, the descendant or surviving spouse may continue to renew the permit by paying a renewal fee equal to the fee the permittee would be required to pay had he lived.

Acts 1977, 65th Leg., p. 431, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 28.06. POSSESSION OF ALCOHOLIC BEVERAGE NOT COVERED BY INVOICE. (a) Except as provided by Sections 14.07, 28.20, and 37.01(d), no holder of a mixed beverage permit, nor any officer, agent, or employee of a holder, may possess or permit to be possessed on the premises for which the permit is issued any alcoholic beverage which is not covered by an invoice from the supplier from whom the alcoholic beverage was purchased.

(b) A person who violates Subsection (a) of this section commits a misdemeanor punishable by a fine of not more than \$1,000 or by confinement in the county jail for no more than 30 days or by both.

(c) Except as provided by Sections 14.07, 28.20, and 37.01(d), no holder of a mixed beverage permit, nor any officer, agent, or employee of a holder, may knowingly possess or permit to be possessed on the licensed premises any alcoholic beverage which is not covered by an invoice from the supplier from whom the alcoholic beverage was purchased.

(d) A person who violates Subsection (c) of this section commits a misdemeanor punishable by a fine of not less than \$500 nor more than \$1,000 and by confinement in the county jail for not less than 30 days nor more than two years. The commission or administrator shall cancel the permit of any permittee found by the commission or administrator, after notice and hearing, to have violated or to have been convicted of violating Subsection (c) of this section.

(e) The commission by rule may allow the holder of a mixed beverage permit or an officer, agent, or employee of the permit holder to possess and use alcoholic beverages that are not covered by an invoice on the permitted premises for cooking purposes.

Acts 1977, 65th Leg., p. 431, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 441 (H.B. 2237), Sec. 2, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 792 (H.B. 1997), Sec. 4, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 16 (S.B. 926), Sec. 2, eff. May 13, 2023.

Sec. 28.07. PURCHASE AND TRANSPORTATION OF ALCOHOLIC BEVERAGES. (a) All distilled spirits and vintage distilled spirits sold by a holder of a mixed beverage permit must be purchased from a holder of a local distributor's permit in the county in which the premises of a mixed beverage permittee is located.

(b) If a holder of a mixed beverage permit is in a county where there are no local distributors, the permit holder may purchase alcoholic beverages in the nearest county where local distributors are located and may transport them to the permit holder's premises. The transporter may acquire the alcoholic beverages only on the written order of the holder of the mixed beverage permit. The alcoholic beverages must be accompanied by a written statement furnished and signed by the local distributor showing the name and address of the consignee and consignor, the origin and destination of the shipment, and any other information required by the commission or administrator. The person in charge of the alcoholic beverages while they are being transported shall exhibit the written statement to any representative of the commission or any peace officer on demand, and the statement shall be accepted by the representative or officer as prima facie evidence of the lawful right to transport the alcoholic beverages.

(c) If a mixed beverage permittee's premises are located in a regional airport governed by a board, commission, or authority composed of members from two or more counties, and there is no local distributor at the airport, the mixed beverage permittee may purchase alcoholic beverages from any local distributor in a trade area served by the airport and transport the alcoholic beverages to the permit holder's licensed premises. The transportation of the

beverages must be in accordance with Subsection (b).

(d) The holder of a mixed beverage permit may transfer alcoholic beverages from the place of purchase to the permitted premises as provided in this code.

Acts 1977, 65th Leg., p. 431, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1977, 65th Leg., p. 1182, ch. 453, Sec. 5, eff. Sept. 1, 1977; Acts 1993, 73rd Leg., ch. 934, Sec. 35, eff. Sept. 1, 1993.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 120, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 91 (S.B. 1322), Sec. 6, eff. September 1, 2023.

Sec. 28.08. REFILLING CONTAINERS PROHIBITED. No holder of a mixed beverage permit may refill with any substance a container which contained distilled spirits on which the tax prescribed in Section 201.03 of this code has been paid.

Acts 1977, 65th Leg., p. 432, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 28.081. SUBSTITUTION OF BRAND WITHOUT CONSENT OF CONSUMER PROHIBITED. (a) The holder of a mixed beverage permit or a private club permit, or the agent, servant, or employee of a holder of a mixed beverage permit or private club permit commits an offense if the holder, agent, servant, or employee substitutes one brand of alcoholic beverage for a brand that has been specifically requested by a consumer, unless the consumer is notified and consents to the substitution.

(b) A holder of a permit who violates Subsection (a) of this section is liable in a civil suit to a consumer for damages resulting from the substitution. The court shall award the prevailing party in an action under this section attorney's fees and costs of action.

(c) The commission shall provide written notice of the provisions of this section to an applicant or permittee when issuing an original or renewal mixed beverage permit or private club permit on or after October 1, 1993.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 36, eff. Sept. 1, 1993.

Sec. 28.09. INVALIDATION OF STAMP. (a) A holder of a mixed beverage permit or any person employed by the holder who empties a bottle containing distilled spirits on which the tax prescribed in Section 201.03 of this code has been paid, shall immediately after emptying the bottle invalidate the identification stamp on the bottle in the manner prescribed by rule or regulation of the commission or administrator.

(b) Each holder of a mixed beverage permit shall provide at all service counters where distilled spirits are poured from bottles the necessary facilities for the invalidation of identification stamps on bottles so that persons emptying distilled spirits bottles may immediately invalidate the identification stamps on them.

(c) If an empty distilled spirits bottle has locked on it an automatic measuring and dispensing device of a type approved by the commission or administrator, which prevents the refilling of the bottle without unlocking the device and removing it from the bottle, the identification stamp is not required to be invalidated until immediately after the device has been unlocked and removed from the bottle.

(d) A holder of a mixed beverage permit or any of his officers, agents, or employees who is found in possession of an empty distilled spirits bottle which contained distilled spirits on which the tax prescribed in Section 201.03 of this code has been paid and on which the identification stamp has not been invalidated in accordance with this section commits a separate offense for each bottle so possessed.

Acts 1977, 65th Leg., p. 432, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 28.10. CONSUMPTION RESTRICTED TO PREMISES; EXCEPTIONS. (a) Except as provided by this section or Sections 28.01(b), 28.1001, and 28.20, a mixed beverage permittee may not sell an alcoholic beverage to another mixed beverage permittee or to any other person except for consumption on the seller's licensed premises.

(b) A mixed beverage permittee may not permit any person to take any alcoholic beverage purchased on the licensed premises from the premises where sold, except that:

(1) a person who orders wine with food may remove the container of wine from the premises whether the container is opened or unopened;

(2) a mixed beverage permittee who also holds a brewpub license may sell or offer without charge on the premises of the brewpub, to an ultimate consumer for consumption on or off the premises, malt beverages produced by the permittee, in or from a lawful container in an amount that does not exceed one-half barrel, provided that the aggregate amount of malt beverages removed from the premises under this subdivision does not exceed 1,000 barrels annually; and

(3) a person who purchases wine or malt beverages from a holder of a mixed beverage permit selling the beverages under Section 28.20 may remove the beverages from the premises.

(c) A mixed beverage permit holder who holds a food and beverage certificate may designate as part of the permit holder's premises a secured noncontiguous area located on a public sidewalk adjoining the premises if the designation is authorized by city ordinance. The ordinance may specify and limit the areas of the municipality in which this subsection is applicable. Alcoholic beverages may be delivered by an employee of the permit holder to patrons for consumption in the designated sidewalk area.

Acts 1977, 65th Leg., p. 432, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 2001, 77th Leg., ch. 1274, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 409 (S.B. 952), Sec. 1, eff. June 15, 2007.

Acts 2019, 86th Leg., R.S., Ch. 441 (S.B. 1450), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 121, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 23 (H.B. 1755), Sec. 1, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 16 (S.B. 926), Sec. 3, eff. May 13, 2023.

Sec. 28.1001. PICKUP AND DELIVERY OF ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION.

(a) In this section:

(1) "Passenger area of a motor vehicle" has the meaning assigned by Section 49.031, Penal Code.

(2) "Tamper-proof container" means a container that, once sealed, clearly shows whether it has been opened. The term includes a closed cup or similar container that is:

(A) placed into a bag that has been sealed with a zip tie or staple;

(B) sealed with shrink wrap or a similar seal; or

(C) sealed by other methods approved by rule of the commission.

(a-1) Notwithstanding any other provision of this code, the holder of a mixed beverage permit may deliver, or have delivered by a third party, including an independent contractor acting under Chapter 57, as added by Chapter 441 (S.B. 1450), Acts of the 86th Legislature, Regular Session, 2019, an alcoholic beverage from the permitted premises to an ultimate consumer located off-premises and in an area where the sale of the beverage is legal if:

(1) the holder of the mixed beverage permit holds a food and beverage certificate for the permitted premises;

(2) the delivery of the alcoholic beverage is made as part of the delivery of food prepared at the permitted premises;

(3) the alcoholic beverage is:

(A) a malt beverage or wine delivered in:

(i) an original container sealed by the manufacturer; or

(ii) a tamper-proof container that is sealed by the permit holder and clearly labeled with the permit holder's business name and the words "alcoholic beverage"; or

(B) an alcoholic beverage other than a malt beverage or wine that:

(i) is delivered in an original,

single-serving container sealed by the manufacturer and not larger than 375 milliliters; or

(ii) the permit holder mixes with other beverages or garnishes and stores in a tamper-proof container that is clearly labeled with the permit holder's business name and the words "alcoholic beverage"; and

(4) the delivery is not made to another premises that is permitted or licensed under this code.

(a-2) Notwithstanding any other provision of this code, the holder of a mixed beverage permit may allow an ultimate consumer to pick up an alcoholic beverage described by Subsection (a-1)(3) and remove the beverage from the permitted premises if:

(1) the holder of the mixed beverage permit holds a food and beverage certificate for the permitted premises; and

(2) the pickup of the alcoholic beverage is made as part of the pickup of food prepared at the permitted premises.

(b) An alcoholic beverage may be delivered under this section only by a person who is 21 years of age or older.

(c) An alcoholic beverage picked up or delivered under this section may be provided only to a person who is 21 years of age or older after the person picking up the alcoholic beverage or accepting the delivery presents valid proof of identity and age and:

(1) the person picking up the alcoholic beverage or accepting the delivery personally signs a receipt, which may be electronic, acknowledging the pickup or delivery; or

(2) the person providing the beverage for pickup or making the delivery acknowledges the completion of the pickup or delivery through a software application.

(d) This section does not authorize the holder of a brewpub license who also holds a wine and malt beverage retailer's permit to deliver alcoholic beverages directly to ultimate consumers for off-premise consumption at a location other than the licensed premises.

(e) A person who picks up or delivers an alcoholic beverage described by Subsection (a-1)(3)(A)(ii) or (a-1)(3)(B)(ii) may not transport the alcoholic beverage in the passenger area of a motor

vehicle.

Added by Acts 2019, 86th Leg., R.S., Ch. 441 (S.B. 1450), Sec. 2, eff. September 1, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 6 (H.B. 1024), Sec. 1, eff. May 12, 2021.

Acts 2021, 87th Leg., R.S., Ch. 6 (H.B. 1024), Sec. 2, eff. May 12, 2021.

Sec. 28.101. PUBLIC CONSUMPTION. (a) This section applies only to a mixed beverage permit holder whose premises are located in a municipality that:

- (1) has a population of less than 15,000;
- (2) is located in a county with a population of less than 65,000; and
- (3) contains a historic preservation district that borders a lake.

(b) Notwithstanding Section 28.10 or any other law, the holder of a mixed beverage permit whose permitted premises are located on property owned by a municipality that contains a municipally owned conference center and that borders a lake may permit a patron to leave the permitted premises, even though the patron possesses an alcoholic beverage, if:

- (1) the beverage is in an open container and appears to be possessed for present consumption; and
- (2) the public consumption of alcoholic beverages or possession of an open container of an alcoholic beverage is not prohibited on the municipally owned property where the permitted premises are located.

(c) This section does not affect the prohibition against possessing an open container in a passenger area of a motor vehicle under Section 49.031, Penal Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1045 (H.B. 4498), Sec. 1, eff. September 1, 2009.

Sec. 28.11. BREACH OF PEACE. The commission or administrator may suspend or cancel a mixed beverage permit after

giving the permittee notice and the opportunity to show compliance with all requirements of law for the retention of the permit if it finds that a breach of the peace has occurred on the licensed premises or on premises under the control of the permittee and that the breach of the peace was not beyond the control of the permittee and resulted from his improper supervision of persons permitted to be on the licensed premises or on premises under his control.

Acts 1977, 65th Leg., p. 432, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 28.12. SALE OF MALT BEVERAGES TO PERMITTEE. The sale of malt beverages to a mixed beverage permittee by a local distributor's permittee or by a licensee authorized to sell them for resale is subject to the provisions of Section 61.73 of this code.

Acts 1977, 65th Leg., p. 433, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 28.135. DESIGNATION OF LICENSED PREMISES FOR PERMITS COVERING CERTAIN COUNTY-OWNED FACILITIES. (a) This section applies only to a facility that is:

(1) partially located in a municipality that:

(A) has a population of less than 40,000; and

(B) is located in a county with a population less than 70,000; and

(2) a county-owned civic center that consists of adjacent buildings not all of which are located in the municipality described by Subdivision (1).

(b) Notwithstanding any other law, all buildings comprising a facility described by Subsection (a) may be designated as and considered the licensed premises for purposes of a mixed beverage permit covering the facility.

Added by Acts 2015, 84th Leg., R.S., Ch. 151 (H.B. 601), Sec. 1, eff. September 1, 2015.

Sec. 28.14. MERGER OR CONSOLIDATION OF CORPORATIONS HOLDING MIXED BEVERAGE PERMITS. When two or more corporations which have substantially similar ownership and which hold mixed beverage permits issued by the commission merge or consolidate and pay to the

commission a \$100 fee for each licensed premises, the surviving corporation shall succeed to all the privileges of such corporations in the permits held by such corporations provided the surviving corporation is qualified to hold such permits under this code. For purposes of this section, two corporations have substantially similar ownership if 90 percent or more of both corporations is owned by the same persons.

Added by Acts 1989, 71st Leg., 1st C.S., ch. 36, Sec. 4, eff. Oct. 18, 1989.

Sec. 28.15. STAMPS. (a) Except as provided by Sections 14.07 and 37.01(d), a mixed beverage permittee may not possess or permit a person to possess on the premises distilled spirits in any container that does not bear a serially numbered identification stamp issued by the commission or other identification approved by the commission.

(b) A holder of a local distributor's permit may not knowingly sell, ship, or deliver distilled spirits in any container that does not bear a serially numbered identification stamp issued by the commission or other identification approved by the commission.

(c) Identification stamps may be issued only to a holder of a local distributor's permit who shall affix the stamps as prescribed by the commission or administrator.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 37, eff. Jan. 1, 1994.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 792 (H.B. 1997), Sec. 5, eff. September 1, 2019.

Sec. 28.151. POSSESSION OF CERTAIN STAMPS. A mixed beverage permittee may not possess a stamp used to show payment of a tax unless the stamp is affixed to a bottle or container of liquor.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1008 (H.B. 2460), Sec. 1, eff. September 1, 2013.

Sec. 28.16. PERMIT INELIGIBILITY. A mixed beverage permit may not be issued to:

(1) a person whose permit was canceled for a violation of Section 28.06(c) of this code;

(2) a person who held an interest in a permit that was canceled for a violation of Section 28.06(c) of this code;

(3) a person who held 50 percent or more of the stock, directly or indirectly, of a corporation whose permit was canceled for a violation of Section 28.06(c) of this code;

(4) a corporation, if a person holding 50 percent or more of the corporation's stock, directly or indirectly, is disqualified from obtaining a permit under Subdivision (3) of this section; or

(5) a person who resides with a person who is barred from obtaining a permit because of a violation of Section 28.06(c) of this code.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 37, eff. Jan. 1, 1994.

Sec. 28.17. SUMMARY SUSPENSION. (a) The commission may summarily suspend, without a hearing, the permit of a permittee who fails to file a return, post the security required by the comptroller under Section 183.053, Tax Code, or make a tax payment. The administrative procedure law, Chapter 2001, Government Code, does not apply to the commission in the enforcement and administration of this section.

(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.

(c) The commission shall terminate a suspension made under this section when the permittee files all required returns, posts the security required by the comptroller under Section 183.053, Tax Code, and makes all required tax payments, including payment of penalties that are due.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 37, eff. Jan. 1, 1994.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1001, Sec. 6, eff. Aug. 28, 1995.

Sec. 28.18. FOOD AND BEVERAGE CERTIFICATE. (a) In this section, "location" means the designated physical address of the mixed beverage permit and includes all areas at the address where the permit holder may sell or deliver alcoholic beverages for immediate consumption regardless of whether some of those areas are occupied by other businesses.

(a-1) A holder of a mixed beverage permit may be issued a food and beverage certificate by the commission if:

(1) the permit holder is a restaurant; or

(2) the commission finds that the receipts from the sale of alcoholic beverages by the permit holder at the location are 60 percent or less of the total receipts from the location.

(b) A food and beverage certificate may not be issued unless the location has permanent food service facilities for the preparation and service of multiple entrees for consumption at the location.

(b-1) The commission shall adopt rules requiring the holder of a food and beverage certificate to assure that permanent food service facilities for the preparation and service of multiple entrees for consumption at the location are available at the location. The commission may exempt permittees who are concessionaires in public entertainment venues such as sports stadiums and convention centers from Subsections (a-1) and (b).

(c) The fee for a food and beverage certificate shall be set at a level sufficient to recover the cost of issuing the certificate and administering this section.

(d) Repealed by Acts 2017, 85th Leg., R.S., Ch. 466 (H.B. 2101), Sec. 5, eff. September 1, 2017.

(e) A certificate issued under this section expires on the expiration of the primary mixed beverage permit. A certificate may be canceled at any time, and the renewal of a certificate may be denied, if the commission finds that the holder of the certificate is in violation of Subsection (a-1) or (b) or a rule adopted under Subsection (b-1). On finding that the permittee knowingly operated under a food and beverage certificate while not complying with this section or a rule adopted under Subsection (b-1), the commission may cancel or deny the renewal of the permittee's mixed

beverage permit. A mixed beverage permit issued in an area where the legal sale of mixed beverages was authorized by a local option election under Section 501.035(b)(9), Election Code, is canceled by operation of law if the food and beverage certificate is canceled or is not renewed. The holder of a mixed beverage permit whose certificate has been canceled or who is denied renewal of a certificate under this subsection may not apply for a new certificate until the day after the first anniversary of the date the certificate was canceled or the renewal of the certificate was denied.

(f) Section 11.11 does not apply to the holder of a food and beverage certificate.

Added by Acts 1995, 74th Leg., ch. 1060, Sec. 6, eff. Aug. 28, 1995.

Amended by Acts 2001, 77th Leg., ch. 853, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1045, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 466 (H.B. 2101), Sec. 2, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 466 (H.B. 2101), Sec. 5, eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 305 (S.B. 911), Sec. 3, eff. January 1, 2022.

Sec. 28.19. SALES AT TEMPORARY LOCATION. (a) The holder of a mixed beverage permit may temporarily sell authorized alcoholic beverages at:

(1) a picnic, celebration, or similar event; or

(2) a place other than the premises for which the holder's mixed beverage permit is issued only in:

(A) an area where the sale of mixed beverages has been authorized by a local option election; or

(B) an area that:

(i) is adjacent to a county with a home-rule municipality with a population of more than 350,000:

(a) that has in its charter a provision allowing for limited purpose annexation for zoning;

(b) that has previously disannexed

territory annexed for limited purposes; and

(c) that allows the sale of mixed beverages;

(ii) does not comprise an entire county; and

(iii) is not within the corporate limits of a municipality.

(b) Distilled spirits sold at a temporary location under this section must be purchased from the holder of a local distributor's permit.

(c) The commission shall adopt rules to implement this section, including rules that:

(1) require the permit holder to notify the commission of the dates on which and location where the permit holder will temporarily offer alcoholic beverages for sale under this section;

(2) establish a procedure to verify the wet or dry status of the location where the permit holder intends to temporarily sell alcoholic beverages under this section;

(3) detail the circumstances when a permit holder may temporarily sell alcoholic beverages under this section with only a notification to the commission and the circumstances that require the commission's preapproval before a permit holder may temporarily sell alcoholic beverages under this section;

(4) establish the length of time a permit holder may sell alcoholic beverages under this section at the same location; and

(5) require the permit holder to provide any other information the commission determines necessary.

(d) Notwithstanding any other law, the temporary sale of alcoholic beverages by a mixed beverage permit holder under this section in an area located on property owned by a municipality that contains a municipally owned conference center and that borders a lake may permit a patron to leave the area, even though the patron possesses an alcoholic beverage, if:

(1) the beverage is in an open container and appears to be possessed for present consumption; and

(2) the public consumption of alcoholic beverages or

possession of an open container of an alcoholic beverage is not prohibited on the municipally owned property where the area is located.

(e) Subsection (d) applies only to a mixed beverage permit holder operating under this section in an area in a municipality that:

- (1) has a population of less than 15,000;
- (2) is located in a county with a population of less than 65,000; and
- (3) contains a historic preservation district that borders a lake.

(f) Subsection (d) does not affect the prohibition against possessing an open container in a passenger area of a motor vehicle under Section [49.031](#), Penal Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 122, eff. September 1, 2021.

Text of section as added by Acts 2023, 88th Leg., R.S., Ch. 16 (S.B. [926](#)), Sec. 4

For text of section as added by Acts 2023, 88th Leg., R.S., Ch. 1087 (S.B. [998](#)), Sec. 2, see other Sec. 28.20.

Sec. 28.20. TEMPORARY SALES AT CERTAIN RACING FACILITIES.

(a) The holder of a mixed beverage permit may temporarily sell wine and malt beverages in an area of a facility with a seating capacity of more than 40,000 that is open to the public and not otherwise covered by a license or permit during a motor vehicle racing event sponsored by a professional motor racing association.

(b) The holder of a mixed beverage permit may, under this section, sell wine and malt beverages containing alcohol in excess of one-half of one percent by volume but not more than 17 percent by volume for consumption on or off the premises where sold, but not for resale.

(c) The holder of a mixed beverage permit may temporarily sell wine and malt beverages for not more than five consecutive days at an event under this section or six days if necessary to accommodate the postponement of scheduled racing events due to an act of nature.

(d) The holder of a mixed beverage permit who temporarily sells wine and malt beverages under this section may not:

(1) sell under this section at the facility more than four times in a calendar year;

(2) sell alcoholic beverages in factory-sealed containers;

(3) sell more than two drinks to a single consumer at one time;

(4) sell alcoholic beverages at more than 50 percent of the food and beverage concession stands that are open for business at any one time; or

(5) sell alcoholic beverages after:

(A) 75 percent of the feature race is complete on the day that race is held; or

(B) one hour before the scheduled completion of the last spectator event on a day other than the feature race day.

(e) A holder of a mixed beverage permit who sells wine or malt beverages under that permit in a county other than the county in which the premises covered by the permit is located shall:

(1) purchase the beverages from a distributor or wholesaler authorized under this code to sell the beverages in the county in which the permit holder sells the beverages under this section; and

(2) report to the commission, in the manner prescribed by the commission by rule, the amount of beverages purchased and sold under this section, by type.

(f) The holder of a mixed beverage permit who temporarily sells wine and malt beverages under this section, or any officer, agent, or employee of the permit holder, may allow a person to:

(1) possess and consume alcoholic beverages brought onto the premises by the person; and

(2) remove from the premises any alcoholic beverages brought onto the premises by the person.

(g) The commission shall adopt rules to implement this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 16 (S.B. [926](#)), Sec. 4, eff. May 13, 2023.

Text of section as added by Acts 2023, 88th Leg., R.S., Ch. 1087

(S.B. 998), Sec. 2

For text of section as added by Acts 2023, 88th Leg., R.S., Ch. 16

(S.B. 926), Sec. 4, see other Sec. 28.20.

Sec. 28.20. TRAINING PROGRAM ON OPIOID-RELATED DRUG OVERDOSE. (a) Except as provided by Subsection (b), the holder of a mixed beverage permit and each employee of the permit holder who is required by the permit holder to complete a commission-approved seller training program shall complete the opioid-related drug overdose training program described by Section 5.61 each year.

(b) This section does not apply to a mixed beverage permit holder that is a restaurant as defined by Section 1.04.

Added by Acts 2023, 88th Leg., R.S., Ch. 1087 (S.B. 998), Sec. 2, eff. September 1, 2023.