

The Texas Alcoholic Beverage Commission (TABC) adopts an amendment to rule 16 TAC §41.25, relating to Providing Retailer Samples: Distiller’s and Rectifier’s Permit. The amendment is adopted without changes to the proposed text as published in the December 1, 2023, issue of the *Texas Register* (48 TexReg 6987). The amended rule will not be republished.

REASONED JUSTIFICATION. The amendment is necessary to implement new legislation and provide clarity for impacted permittees. Senate Bill 1375 (88th Regular Session) authorized a distiller's and rectifier's permit holder to conduct samplings or tastings at certain temporary events. The amendment to §41.25 implements SB 1375 by acknowledging that a distiller's and rectifier's permit holder may conduct samplings or tastings consistent with SB 1375 and clarifies that samples of distilled spirits taken from a distiller’s inventory for such events qualify as a first sale for purposes of excise tax payments under Alcoholic Beverage Code §§201.02 and 201.03. A conforming change is also made to the rule's title.

SUMMARY OF COMMENTS. TABC received one comment from the Texas Distilled Spirits Association supporting the amendment to §41.25.

COMMENT: The commenter supports the proposed changes to §41.25 and states that they “believe that allowing Texas distillers to bring their own manufactured products from their inventory matches the legislative intent of SB 1375.”

AGENCY RESPONSE: TABC appreciates the comment.

STATUTORY AUTHORITY. TABC adopts the amendment under §§5.31 and 14.09(g) of the Alcoholic Beverage Code. Section 5.31 provides that TABC may prescribe and publish rules necessary to carry out the provisions of the Alcoholic Beverage Code. Section 14.09(g) provides that TABC shall adopt rules to implement distilled spirits samplings or tastings at temporary events.

CERTIFICATION. The amendment, as adopted, has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

<rule>

§41.25. Providing Samples: Distiller’s and Rectifier’s Permit.

(a) A holder of a Distiller’s and Rectifier’s Permit may provide samples obtained from the distiller’s inventory to:

- (1) a retailer in accordance with Alcoholic Beverage Code §14.07; and
- (2) a consumer in accordance with Alcoholic Beverage Code §14.09.

(b) Samples taken from the distiller’s inventory are considered “first sale” for purposes of taxation under Alcoholic Beverage Code §201.03. The holder of the Distiller’s and Rectifier’s Permit shall remit excise taxes for samples taken from inventory not later than the 15th day of the month following the month in which occurs the “first sale.”