

The Texas Alcoholic Beverage Commission (TABC) adopts an amendment to rule 16 TAC §50.3, relating to Mandatory Course Curriculum. The amendment is adopted without changes to the proposed text as published in the December 1, 2023, issue of the *Texas Register* (48 TexReg 6989). The amended rule will not be republished. TABC declines to adopt changes to 16 TAC §§50.4-50.6 and 50.29, relating to Alcoholic Beverage Seller Server and Delivery Driver Training, as proposed in the same issue of the *Texas Register*.

**REASONED JUSTIFICATION.** The amendment to §50.3(f) eliminates outdated references to the process TABC used to develop the original mandatory course curriculum for seller server training. The amendment also simplifies the process for updating the curriculum by allowing TABC's executive director or their designee to update the curriculum as needed and requires the agency to post notice of any such changes on its website and in the *Texas Register*.

**SUMMARY OF COMMENTS.** TABC did not receive any comments on the proposed amendment to §50.3. TABC did receive a comment from the Texas Restaurant Association opposing the proposed amendments to §§50.4 - 50.6 and 50.29, which increased the minimum minutes of active instruction and student participation in the seller server training course curriculum from 120 to 140 minutes to account for the inclusion of training on the signs and symptoms of an opioid-related drug overdose and the administration of an opioid antagonist. The opioid-related training is mandated for certain permittees and licensees under Senate Bill 998 (88th Regular Session).

**COMMENT:** The commenter opposes the inclusion of opioid-related training in the agency's seller server training and suggests that the proposed amendments to §§50.4 - 50.6 and 50.29 were based on a filed version of SB 998, which did not exempt restaurants from the opioid-related training requirements, rather than the final version of the bill, which did contain such an exemption.

**AGENCY RESPONSE:** TABC disagrees with the commenter's suggestion that the proposed amendments to §§50.4 - 50.6 and 50.29 were not based on the final version of SB 998. TABC staff closely reviewed the passed version of SB 998 before drafting the proposed amendments. Nevertheless, TABC accepts the commenter's suggestion that opioid-related training not be included in the agency's seller server training. Instead, the opioid-related training will be offered as a standalone course. As such, TABC will not proceed with the adoption of the proposed amendments to §§50.4 - 50.6 and 50.29.

**STATUTORY AUTHORITY.** TABC adopts the amendment under §§5.31 and 106.14(b) 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 106.14(b) requires TABC to adopt rules or policies establishing the minimum requirements for approved seller training programs.

**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>

### §50.3. Mandatory Course Curriculum.

(a) The mandatory curriculum is created by and updated by the commission or under a work-for-hire contract. Each certified school is provided with information and security access to the commission's secure portal when an original certificate or renewal is issued. Schools that are unable to access or download the mandatory curriculum must submit a written request to have the curriculum provided in an alternate format. The commission will not provide paper copies of the mandatory curriculum.

(b) The commission claims a copyright in the mandatory curriculum. The mandatory curriculum may not be sold and may not be used in whole or in part without including the commission's claim of copyright.

(c) Each certified school is granted access and specific rights of use to the mandatory curriculum and all updates as part of the school licensing fee.

(1) The copyright license provides unlimited use of the mandatory curriculum for authorized purposes only.

(2) The commission's claim of copyright must be included in all written and visual materials from the mandatory curriculum.

(3) Any sale or use of the mandatory curriculum for unauthorized purposes is a violation of this chapter.

(d) Upon receiving notice from the commission of a change to the mandatory curriculum, a school has thirty calendar days to implement the change.

(e) These topics in the mandatory curriculum must be included in the course of instruction offered by each school.

(1) The definition of intoxication.

(2) The law pertaining to intoxicated persons.

(3) The law pertaining to minors.

(4) The law pertaining to proper identification.

(5) How to detect intoxication.

(6) How to detect minors.

(7) How to detect improper identification.

(8) How to monitor customer behavior.

(9) How to use a chart showing the effects of alcohol based on: the size, type and number of drinks; body weight; the sex of the drinker; and the passage of time.

(10) The dangers of alcohol poisoning.

(11) Intervention pertaining to intoxication.

(12) Intervention pertaining to minors.

(13) Sanctions for employee violations.

(14) Any other topics identified by the commission as appropriate, giving due consideration to developments in the law, society, and the alcoholic beverage industry.

(f) When the executive director or their designee changes the curriculum, the commission will post notice in the Texas Register and on the commission's website that such changes have been made.