LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 12, 2005

TO: Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: **HB2544** by Hamric (Relating to the continuation and functions of the Texas Alcoholic Beverage Commission.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Alcoholic Beverage Code as it relates to the continuation and functions of the Texas Alcoholic Beverage Commission (TABC).

The bill would define an original package, as applied to beer, as a container holding beer in bulk, or any box, crate, carton, or other device used in packing beer that is contained in bottles or other containers. The bill continues TABC for 6 more years and changes the sunset date from September 1, 2005 to September 1, 2011.

Section 4 of the bill would require persons who are appointed to and that qualify for office as a member of the commission to complete a training program that provides certain information before the person can vote, deliberate, or be counted as a member in attendance at a meeting of the commission.

Sections 9, 10, 11, 12, and 13 of the bill would add duties to the commission such as 1) developing a risk-based approach to enforcement and compiling detailed statistics in order to analyze trends, 2) establishing a schedule of sanctions, 3) testing the contents of any alcoholic beverage manufactured or sold in the state to protect public health and safety, 4) providing procedures for complaint investigation and resolution, and 5) assigning priorities to complaint investigations based on risk and compiling detailed statistics related to complaints in order to analyze trends.

Section 14 of the bill would require TABC to expedite the processing of original and renewal applications for licenses and permits by using electronic means.

Section 15 of the bill would require TABC to develop a formal process for making policy decisions regarding marketing practices regulations and establish a marketing practices workgroup composed of industry members. TABC would be required to consider the workgroup's recommendations when deliberating policy. This section of the bill also creates an office of internal affairs in statute to ensure fair and impartial investigations of personnel complaints. The office of internal affairs would coordinate and be the central reporting point for all investigations of employee misconduct.

Sections 16, 18, and 19 of the bill allow licensees with no violations in the previous year the option of renewing their licenses every two years, rather than annually. TABC would be required to double the amount of fees and surcharges for a permit with a two-year term.

Sections 17 and 20 of the bill would require TABC to adopt rules that require establishments that sell alcohol for on-premise consumption to display a warning sign on the door to each restroom in order to inform the public of the risk of drinking alcohol during pregnancy.

Sections 21 and 22 of the bill would 1) allow beer manufacturers to submit product analysis from a federally certified laboratory that show a product's alcohol content, in lieu of TABC testing to determine alcohol content, and 2) require TABC to accept federal Alcohol and Tobacco Tax and Trade Bureau certificates of label approval for distilled spirits or wines. These sections also would authorize TABC to set fees sufficient to recover the cost of registering federal approvals and approving labels. Section 21 removes the product approval fee of $25.

Sections 25 and 26 of the bill would allow TABC to recover from the proceeds of a forfeiture sale, all costs of a forfeiture suit. The remaining proceeds would be deposited in the General Revenue Fund. The bill would delete text specifying that 35 percent of the proceeds are deposited in a separate fund in the state treasury designated as the confiscated liquor fund and 65 percent of the proceeds in the General Revenue Fund. The confiscated liquor fund was abolished in 1995 and unobligated balances were transferred to the General Revenue Fund.

Section 27 would direct the legislature to establish a joint interim committee to study the revision of the regulatory structure for the alcoholic beverage industry in the state and not later than January 1, 2007, to report its findings and recommendations to the Governor, Lieutenant Governor, and Speaker of the House of Representatives.

Section 28 of the bill would repeal Sections 37.11 and 101.44, Alcoholic Beverage Code, which relate to the submission of samples, labels, and container capacities for beer.

TABC reports the bill would result in a loss in revenue currently generated through the approval of labels as part of the application process. TABC estimates that the loss in revenue would be $100,000 per fiscal year. However, the bill would allow TABC to charge a fee sufficient to cover costs. Any additional loss in revenue would be offset by a reduction in the agency's workload and adjustments to fees and surcharges pursuant to Article 5.50 of the Alcoholic Beverage Code. Currently the agency employs three Full-Time-Equivalent positions (FTEs) who are involved in label approvals and chemical analysis. TABC also estimates program modifications would cost $66,000 in fiscal year 2006 to modify current technology systems. TABC received $2.3 million from the 78th Legislature, 2003, to develop a new computer system for its licensing and enforcement functions. It is assumed that modifications can be absorbed within existing resources.

The bill would take effect September 1, 2005.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 302 Office of the Attorney General, 458 Alcoholic Beverage Commission

LBB Staff: JOB, JRO, VDS, LM, SJ