

Texas Motorcycle Safety Forum

SATURDAY, APRIL 9, 2022

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Texas Alcoholic Beverage Commission



REGIONAL BREAKDOWN

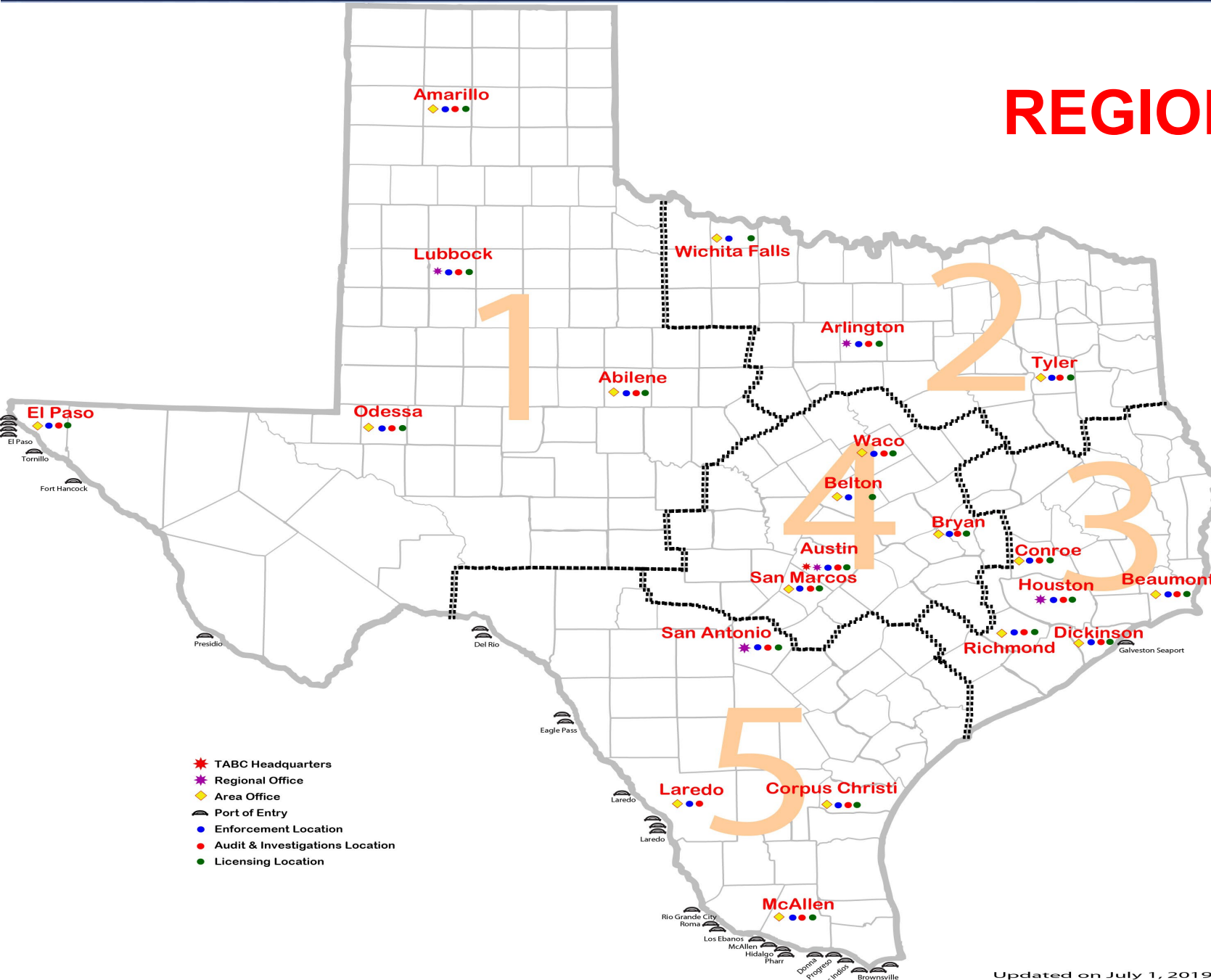
Region 1: Lubbock

Region 2: Arlington

Region 3: Houston

Region 4: Austin

Region 5: San Antonio



Preventing Sales & Service to Intoxicated Persons



2022 Texas Motorcycle Safety Forum

Intoxication – Seller/Server Violations

Violation – Retail Staff Intoxicated On-Premises

It doesn't matter whether you're on or off duty.

Misdemeanor: fine between \$100 & \$1000 and/or up-to one year in jail.

Texas Alcoholic Beverage Code §104.01

Texas Alcoholic Beverage Code §1.05

Violation – Sell, Serve, Deliver to Intoxicated Persons

Misdemeanor: fine between \$100 & \$500 and/or up-to one year in jail.

Retailers can be issued an 8–12-day suspension from selling alcohol or can be fined at a rate of \$300 per day.

Texas Alcoholic Beverage Code §101.63



Intoxication – Limits on Serving Drinks

2 Drinks at a Time – On-Premise Consumption

- Illegal to sell/serve more than **two drinks** to a single consumer at one time.
- Legal to sell/serve two drinks that contain more than two standard servings – like “doubles.”
- Legal to sell/serve alcoholic beverages in pitchers, carafes, buckets, or similar containers (bottles) to two or more consumers at one time.



Intoxication – Limits on Serving Drinks

- It is legal to sell a bottle of liquor to two or more guests, if guests don't become intoxicated.
- Remember that the retailer is responsible for consumer over-consumption.
- Remind wait staff to monitor customers carefully to prevent excessive consumption.

Intoxication – Preventing Illegal Service

Know the Signs of Intoxication

- Leans against structure for support.
- Becomes overly excited.
- Speaks loudly and/or profanely.
- Red or watery eyes.
- Droopy eyelids or tired appearance.
- Slow or deliberate movements.

Recommended Retailer Practices

- Do not sell or serve drinks in oversized containers after midnight.
- Do not sell shots or provide bottle service after 1:00 am.
- Do not announce “last call”.
- At 2:00 a.m., turn the lights on to observe any intoxicated patrons.
- Do not allow promotions that encourage customers to drink to excess.
- Have a plan in place on how to deal with intoxicated customers.



Managers – Reducing Liability

Dram Shop Liability

The Dram Shop Act establishes that licensees/permittees can be held liable in civil court for actions of their employees, customers, members, or guests who are or become intoxicated and cause injury or property damage to themselves or a third party.

Penalties

Monetary damages are determined in a civil court.

Licensee/permittee is subject to revocation of their license/permit for violating the Dram Shop Act.



Managers – Reducing Liability

Employees are an important line of defense in responsible alcoholic beverage service.

- When employees stop service to a minor or intoxicated person, they are protecting the business from serious consequences.
- Remind employees that they can refuse* service to anyone for any reason and will **not** be disciplined.

Safe Harbor:

- Exemption from Administrative action for sale to minors, intoxicated persons, or non-members of a private club.
- Anyone responsible for the sale, service, or delivery of alcohol.

Managers – Reducing Liability

The following criteria must be met to qualify for “Safe Harbor”:

1. Policies & Procedures must be read and understood by employees.
2. Employers have not directly or indirectly encouraged the employee to violate the law.
3. The person selling is not the owner or officer of the licensee or permittee.
4. All employees must be certified by a TABC approved seller training program (employees must be recertified every two years).
5. Employees have 30 days to be certified from the date of hire. If the newly hired employee has the violation, then safe harbor cannot apply if they are not certified.

