

**From:** ["Nick Raymond" <Nick.Raymond@tabc.texas.gov>](mailto:Nick.Raymond@tabc.texas.gov)

**To:** ["Fisher Reynolds" <Fisher.Reynolds@gov.texas.gov>](mailto:Fisher.Reynolds@gov.texas.gov)

**Date:** 3/18/2020 5:20:23 PM

**Subject:** 03.18.20 Alcohol Delivery Waiver Request

**Attachments:** 03.18.20 Alcohol Delivery Waiver Request.docx

[EXTERNAL SENDER] - Do not click on links or open attachments in unexpected messages.

Fisher,  
Attached is the waiver request to help restaurants affected by COVID-19. The industry guidance is also in this document.  
Respectfully,



Nick Raymond  
*Director of Government Relations / Executive Division*  
Texas Alcoholic Beverage Commission  
Office: (512) 206-3365  
Cell: [REDACTED]  
[Nick.Raymond@tabc.texas.gov](mailto:Nick.Raymond@tabc.texas.gov)

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March 18, 2020

Dear Mr. Reynolds,

I write to request a temporary suspension of certain provisions of the Alcoholic Beverage Code (“AB Code”), pursuant to Governor Abbott’s March 13, 2020, disaster proclamation. Since many restaurants in Texas are limited to providing pick-up or delivery orders during the coronavirus pandemic, this request seeks to ensure that retailers who normally sell alcohol for on-premises consumption are able to deliver alcoholic beverages with food to consumers.

A large portion of restaurants hold a Mixed Beverage Permit (“MB Permit”) and are currently allowed to deliver alcoholic beverages to consumers, provided some additional requirements are met. I request to suspend some of these additional requirements so that restaurants do not have to apply and pay for an additional certificate or regulatory hurdles to be able to deliver alcoholic beverages.

AB Code § 28.1001 authorizes MB Permit holders to make deliveries, but subsection (a)(1) requires the permittee to first obtain a Food & Beverage Certificate (“FB Certificate”). TABC has thousands of permitted restaurants that hold the MB Permit, but do not also currently hold an FB Certificate. To be able to conduct deliveries under the current law, these restaurants would have to pay a fee, submit an application for an FB Certificate, and wait for TABC’s approval.

Section 28.1001 also places restrictions on the types of containers in which alcoholic beverages may be delivered. Currently, the beverage must be in a container that was sealed by the manufacturer. This prevents restaurants from making a mixed drink at the bar, sealing it themselves by placing a lid on the container, and then delivering the beverage to the consumer. To allow restaurants to fully operate to the greatest extent possible under the current circumstances, I request to suspend this restriction in 28.1001(a)(3) of the AB Code. The requirement that the delivery of the beverages “is part of the delivery of food prepared on the permitted premises” would still be in place. However, to ensure that the requested statutory suspension does not allow this authority to be abused, I request that the written approval for the suspension be limited to those MB Permit holders that have permanent food service capabilities on their premises.

I respectfully request that the following provision of the Alcoholic Beverage Code be temporarily suspended during the pendency of the Governor’s disaster proclamation as it relates to (1) requiring that mixed beverage restaurants also hold a Food & Beverage Certificate (FB) to conduct alcohol deliveries to consumers, and (3) prohibitions on delivering an alcoholic beverage in a container that was not sealed by the manufacturer:

Kevin J. Lilly | Chair, Houston  
A. Bentley Nettles | Executive Director

Ida Clement Steen | Member, San Antonio  
Jason E. Boatright | Member, Dallas

Deborah Gray Marino | Member, San Antonio  
M. Scott Adkins | Member, El Paso

- Sec. 28.1001(a)(1)
- Sec. 28.1001(a)(3)

Thank you for your consideration on this request, and please let me know if more information is helpful.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Bentley Nettles". The signature is fluid and cursive, with the first name "A." and last name "Nettles" clearly distinguishable.

A. Bentley Nettles  
Executive Director  
Texas Alcoholic Beverage Commission

**From:** ["Fisher Reynolds" <Fisher.Reynolds@gov.texas.gov>](mailto:Fisher.Reynolds@gov.texas.gov)

**To:** ["Bentley Nettles" <Bentley.Nettles@tabc.texas.gov>](mailto:Bentley.Nettles@tabc.texas.gov)

**CC:** ["Nick Raymond" <Nick.Raymond@tabc.texas.gov>](mailto:Nick.Raymond@tabc.texas.gov)

["Jeff Oldham" <jeff.oldham@gov.texas.gov>](mailto:jeff.oldham@gov.texas.gov)

["James Sullivan" <James.Sullivan@gov.texas.gov>](mailto:James.Sullivan@gov.texas.gov)

["Sarah Hicks" <sarah.hicks@gov.texas.gov>](mailto:sarah.hicks@gov.texas.gov)

**Date:** 3/18/2020 8:15:07 PM

**Subject:** TABC Waiver Request: Delivery

**Attachments:** 03.18.20\_TABC Waiver Request\_Alcohol Delivery.docx

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Dear General Nettles:

The Office of the Governor is in receipt of the Texas Alcoholic Beverage Commission's (TABC) request to temporarily suspend the following provisions of the Texas Alcoholic Beverage Code:

- Sec. 28.1001(a)(1); and
- Sec. 28.1001(a)(3).

TABC asserts that strict compliance with these laws could prevent, hinder, or delay necessary action in coping with the COVID-19 disaster, insofar as they prevent the delivery of alcoholic beverages sold at restaurants by adding extra restrictions to the delivery authority.

In accordance with section 418.016 of the Texas Government Code, the Office of the Governor suspends sections 28.1001(a)(1) and 28.1001(a)(3) of the Texas Alcoholic Beverage Code to the extent necessary to allow certain retailers, as specified in TABC's request, to continue business operations through the delivery of food and alcoholic beverages.

This suspension is in effect until terminated by the Office of the Governor or until the March 13, 2020 disaster declaration is lifted or expires.

Thank you,

Fisher Reynolds  
Budget and Policy Advisor

Office of Governor Greg Abbott

March 18, 2020

Dear Mr. Reynolds,

I write to request a temporary suspension of certain provisions of the Alcoholic Beverage Code (“AB Code”), pursuant to Governor Abbott’s March 13, 2020, disaster proclamation. Since many restaurants in Texas are limited to providing pick-up or delivery orders during the coronavirus pandemic, this request seeks to ensure that retailers who normally sell alcohol for on-premises consumption are able to deliver alcoholic beverages with food to consumers.

A large portion of restaurants hold a Mixed Beverage Permit (“MB Permit”) and are currently allowed to deliver alcoholic beverages to consumers, provided some additional requirements are met. I request to suspend some of these additional requirements so that restaurants do not have to apply and pay for an additional certificate or regulatory hurdles to be able to deliver alcoholic beverages.

AB Code § 28.1001 authorizes MB Permit holders to make deliveries, but subsection (a)(1) requires the permittee to first obtain a Food & Beverage Certificate (“FB Certificate”). TABC has thousands of permitted restaurants that hold the MB Permit, but do not also currently hold an FB Certificate. To be able to conduct deliveries under the current law, these restaurants would have to pay a fee, submit an application for an FB Certificate, and wait for TABC’s approval.

Section 28.1001 also places restrictions on the types of containers in which alcoholic beverages may be delivered. Currently, the beverage must be in a container that was sealed by the manufacturer. This prevents restaurants from making a mixed drink at the bar, sealing it themselves by placing a lid on the container, and then delivering the beverage to the consumer. To allow restaurants to fully operate to the greatest extent possible under the current circumstances, I request to suspend this restriction in 28.1001(a)(3) of the AB Code. The requirement that the delivery of the beverages “is part of the delivery of food prepared on the permitted premises” would still be in place. However, to ensure that the requested statutory suspension does not allow this authority to be abused, I request that the written approval for the suspension be limited to those MB Permit holders that have permanent food service capabilities on their premises.

I respectfully request that the following provision of the Alcoholic Beverage Code be temporarily suspended during the pendency of the Governor’s disaster proclamation as it relates to (1) requiring that mixed beverage restaurants also hold a Food & Beverage Certificate (FB) to conduct alcohol deliveries to consumers, and (3) prohibitions on delivering an alcoholic beverage in a container that was not sealed by the manufacturer:

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M. Scott Adkins | Member, El Paso

- Sec. 28.1001(a)(1)
- Sec. 28.1001(a)(3)

Thank you for your consideration on this request, and please let me know if more information is helpful.

Sincerely,

A handwritten signature in cursive script, reading "A. Bentley Nettles".

A. Bentley Nettles  
Executive Director  
Texas Alcoholic Beverage Commission

**From:** "Jared Staples" <Jared.Staples@tabc.texas.gov>

**To:** "Fisher Reynolds" <Fisher.Reynolds@gov.texas.gov>

**CC:** "Bentley Nettles" <Bentley.Nettles@tabc.texas.gov>

**Date:** 3/19/2020 6:00:27 PM

**Subject:** TABC - Withdraw 3.18.20 Waiver Request

**Attachments:** TABC - Withdraw 3.18.20 Waiver Request.docx

[EXTERNAL SENDER] - Do not click on links or open attachments in unexpected messages.

Fisher,

Please see attached TABC request to withdraw the request for waiver submitted March 18, 2020, relating to alcohol delivery.

JS



Jared Staples  
*Director of External Affairs / Executive Division*  
Texas Alcoholic Beverage Commission  
Office: (512) 206-3327  
Jared.Staples@tabc.texas.gov

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March 19, 2020

Fisher Reynolds  
Budget and Policy Advisor  
Office of Governor Greg Abbott

Dear Mr. Reynolds,

Please withdraw my request dated March 18, 2020, as it related to alcohol delivery, asking for a temporary suspension of certain provisions of the Texas Alcoholic Beverage Code.

Sincerely,



A. Bentley Nettles  
Executive Director  
Texas Alcoholic Beverage Commission



**From:** ["Fisher Reynolds" <Fisher.Reynolds@gov.texas.gov>](mailto:Fisher.Reynolds@gov.texas.gov)

**To:** ["Bentley Nettles" <Bentley.Nettles@tabc.texas.gov>](mailto:Bentley.Nettles@tabc.texas.gov)

**CC:** ["Sallie Bentley" <Sallie.Bentley@gov.texas.gov>](mailto:Sallie.Bentley@gov.texas.gov)  
["Brady Franks" <brady.franks@gov.texas.gov>](mailto:brady.franks@gov.texas.gov)  
["Gardner Pate" <Gardner.Pate@gov.texas.gov>](mailto:Gardner.Pate@gov.texas.gov)  
["Jeff Oldham" <jeff.oldham@gov.texas.gov>](mailto:jeff.oldham@gov.texas.gov)  
["Sarah Hicks" <sarah.hicks@gov.texas.gov>](mailto:sarah.hicks@gov.texas.gov)  
["James Sullivan" <James.Sullivan@gov.texas.gov>](mailto:James.Sullivan@gov.texas.gov)  
["Nick Raymond" <Nick.Raymond@tabc.texas.gov>](mailto:Nick.Raymond@tabc.texas.gov)  
["Jared Staples" <Jared.Staples@tabc.texas.gov>](mailto:Jared.Staples@tabc.texas.gov)

**Date:** 3/19/2020 7:08:47 PM

**Subject:** TABC Waiver Repeal Request: Alcohol Delivery

**Attachments:** 03.19.20\_TABC Waiver\_Repeal Request.docx

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Dear General Nettles:

I am in receipt of your request to rescind the temporary suspension that was previously granted on March 18, 2020 in response to your waiver request of March 18, 2020, as it relates to alcohol delivery. TABC's request is granted and the aforementioned suspension is hereby terminated, effective 11:59pm March 19, 2020.

Thank you,

Fisher Reynolds  
Budget and Policy Advisor

Office of Governor Greg Abbott

March 19, 2020

Fisher Reynolds  
Budget and Policy Advisor  
Office of Governor Greg Abbott

Dear Mr. Reynolds,

Please withdraw my request dated March 18, 2020, as it related to alcohol delivery, asking for a temporary suspension of certain provisions of the Texas Alcoholic Beverage Code.

Sincerely,



A. Bentley Nettles  
Executive Director  
Texas Alcoholic Beverage Commission

**From:** "Jared Staples" <[Jared.Staples@tabc.texas.gov](mailto:Jared.Staples@tabc.texas.gov)>

**To:** "Fisher Reynolds" <[Fisher.Reynolds@gov.texas.gov](mailto:Fisher.Reynolds@gov.texas.gov)>

**Date:** 3/19/2020 11:46:45 AM

**Subject:** UPDATED - waiver request re: alcohol to-go & delivery

**Attachments:** TABC Waiver Request - Alcohol To-Go and Delivery.docx

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Jared Staples  
*Director of External Affairs / Executive Division*  
Texas Alcoholic Beverage Commission  
Office: (512) 206-3327  
[Jared.Staples@tabc.texas.gov](mailto:Jared.Staples@tabc.texas.gov)

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## TEXAS ALCOHOLIC BEVERAGE COMMISSION

*Texans Helping Businesses & Protecting Communities*

P.O. Box 13127  
Austin, Texas 78711-3127  
(512) 206-3333  
[www.tabc.texas.gov](http://www.tabc.texas.gov)

March 19, 2020

Dear Mr. Reynolds,

I write to request a temporary suspension of certain provisions of the Alcoholic Beverage Code, pursuant to Governor Abbott's March 13, 2020, disaster proclamation. Since many restaurants in Texas are limited to providing pick-up or delivery orders during the coronavirus pandemic, this request seeks to ensure that restaurants that hold a Mixed Beverage Permit can continue to sell alcoholic beverages to consumers with their food orders.

As it relates to retailers selling alcohol to consumers that the consumer may take away off the retailer's premises, most retailers are currently allowed to do this – except for restaurants with Mixed Beverage Permits.

Additionally, the law allows all off-premise retailers, wineries, and mixed beverage permittees that also hold a Food & Beverage Certificate (FB) to conduct alcohol deliveries to consumers. However, there are thousands of restaurants with Mixed Beverage Permits that do NOT also currently hold an FB. To be able to conduct deliveries under the current law, cash strapped restaurants would have to pay a fee to apply for an FB and TABC would be inundated with thousands of permit applications that it would have to process.

Alcohol sales are a major part of many restaurants' business and the ability to continue these sales while dine-in services are prohibited during the coronavirus pandemic is critical to their survival. Our attached industry guidance sets parameters for alcohol pick-up and delivery orders. Importantly, TABC's guidance prohibits things like "to-go

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A. Bentley Nettles | Executive Director

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margaritas” in which the restaurant mixes and seals a drink itself. All alcohol made available for pick-up or delivery would have to be in a pre-sealed container from the alcohol manufacturer (not the retailer).

I respectfully request that the following provision of the Alcoholic Beverage Code be temporarily suspended during the pendency of the Governor’s disaster proclamation as it relates to (1) prohibiting consumers from leaving a Mixed Beverage premises with a beverage otherwise legally purchased, (2) requiring that mixed beverage restaurants also hold a Food & Beverage Certificate (FB) to conduct alcohol deliveries to consumers, and (3) requiring a personal signature from the recipient in order to avoid unnecessary physical contact:

- Sec. 28.10(a)-(b)
- Sec. 28.1001(a)(1)
- Sec. 28.1001(c)(1)-(2)

Thank you for your consideration on this request, and please let me know if more information is helpful.

Sincerely,

Kevin J. Lilly | Chair, Houston  
A. Bentley Nettles | Executive Director

Ida Clement Steen | Member, San Antonio  
Jason E. Boatright | Member, Dallas

Deborah Gray Marino | Member, San Antonio  
M. Scott Adkins | Member, El Paso



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**From:** ["Fisher Reynolds" <Fisher.Reynolds@gov.texas.gov>](mailto:Fisher.Reynolds@gov.texas.gov)

**To:** ["Bentley Nettles" <Bentley.Nettles@tabc.texas.gov>](mailto:Bentley.Nettles@tabc.texas.gov)

**CC:** ["Sallie Bentley" <Sallie.Bentley@gov.texas.gov>](mailto:Sallie.Bentley@gov.texas.gov)  
["Gardner Pate" <Gardner.Pate@gov.texas.gov>](mailto:Gardner.Pate@gov.texas.gov)  
["James Sullivan" <James.Sullivan@gov.texas.gov>](mailto:James.Sullivan@gov.texas.gov)  
["Nick Raymond" <Nick.Raymond@tabc.texas.gov>](mailto:Nick.Raymond@tabc.texas.gov)  
["Jared Staples" <Jared.Staples@tabc.texas.gov>](mailto:Jared.Staples@tabc.texas.gov)  
["Brady Franks" <brady.franks@gov.texas.gov>](mailto:brady.franks@gov.texas.gov)

**Date:** 3/19/2020 2:56:05 PM

**Subject:** TABC Waiver Request: Alcohol To Go and Delivery

**Attachments:** 03.19.20\_TABC Waiver Request\_Alcohol Delivery and To-Go.docx

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Dear General Nettles:

The Office of the Governor is in receipt of the Texas Alcoholic Beverage Commission's (TABC) request to temporarily suspend the following provisions of the Texas Alcoholic Beverage Code:

- Sec. 28.10(a) . (b);
- Sec. 28.1001(a)(1); and
- Sec. 28.1001(c)(1) (2).

TABC asserts that strict compliance with these laws could prevent, hinder, or delay necessary action in coping with the COVID-19 disaster, insofar as they prevent the delivery and sale to-go of alcoholic beverages.

In accordance with section 418.016 of the Texas Government Code, the Office of the Governor suspends sections Sec. 28.10(a) (b), Sec. 28.1001(a)(1), and Sec. 28.1001(c)(1) (2) of the Texas Alcoholic Beverage Code to the extent necessary to allow certain retailers, as specified in TABC's request, to continue business operations through the delivery and sale to-go of food and alcoholic beverages.

This suspension is in effect until terminated by the Office of the Governor or until the March 13, 2020 disaster declaration is lifted or expires.

Thank you,

Fisher Reynolds  
Budget and Policy Advisor

Office of Governor Greg Abbott





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March 19, 2020

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As it relates to retailers selling alcohol to consumers that the consumer may take away off the retailer's premises, most retailers are currently allowed to do this – except for restaurants with Mixed Beverage Permits.

Additionally, the law allows all off-premise retailers, wineries, and mixed beverage permittees that also hold a Food & Beverage Certificate (FB) to conduct alcohol deliveries to consumers. However, there are thousands of restaurants with Mixed Beverage Permits that do NOT also currently hold an FB. To be able to conduct deliveries under the current law, cash strapped restaurants would have to pay a fee to apply for an FB and TABC would be inundated with thousands of permit applications that it would have to process.

Alcohol sales are a major part of many restaurants' business and the ability to continue these sales while dine-in services are prohibited during the coronavirus pandemic is critical to their survival. Our attached industry guidance sets parameters for alcohol pick-up and delivery orders. Importantly, TABC's guidance prohibits things like "to-go

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margaritas” in which the restaurant mixes and seals a drink itself. All alcohol made available for pick-up or delivery would have to be in a pre-sealed container from the alcohol manufacturer (not the retailer).

I respectfully request that the following provision of the Alcoholic Beverage Code be temporarily suspended during the pendency of the Governor’s disaster proclamation as it relates to (1) prohibiting consumers from leaving a Mixed Beverage premises with a beverage otherwise legally purchased, (2) requiring that mixed beverage restaurants also hold a Food & Beverage Certificate (FB) to conduct alcohol deliveries to consumers, and (3) requiring a personal signature from the recipient in order to avoid unnecessary physical contact:

- Sec. 28.10(a)-(b)
- Sec. 28.1001(a)(1)
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Thank you for your consideration on this request, and please let me know if more information is helpful.

Sincerely,

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**From:** ["Nick Raymond" <Nick.Raymond@tabc.texas.gov>](mailto:Nick.Raymond@tabc.texas.gov)  
**To:** ["Fisher Reynolds" <Fisher.Reynolds@gov.texas.gov>](mailto:Fisher.Reynolds@gov.texas.gov)  
**Date:** 3/21/2020 2:31:19 PM  
**Subject:** Fwd: Plea to Permit Mixed Beverages "To-Go"

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[EXTERNAL SENDER] - Do not click on links or open attachments in unexpected messages.

Fisher,  
I'm sure you've been getting similar, if not the same, request from Industry requesting a waiver to allow premixed drinks to be sold, either for delivery or to go.  
Just doing my due diligence. We receive this write up this morning and I believe it sums up all the challenges these folks are still facing most clearly and with examples.

This is merely a pass through to provide information and context to what we are receiving.  
Please advise,

Nick Raymond  
Director of Government Relations  
Texas Alcoholic Beverage Commission  
512-206-3365  
817-350-3415

Industry request  
Subject: Plea to Permit Mixed Beverages "To-Go"

At the end of the day, I m just one guy. And, I know you re getting inundated with emails, calls, etc. But, I hope you will give this email a bit more attention than others, as this email represents the economic hardships of 3000+ units of bars and restaurants that we represent. Like you, I am getting inundated with calls, emails, texts, etc. from worried, frantic, desperate, and soon-to-be insolvent businesses.

In short, what Governor Abbott did to provide for off premise sales for MB Permits is a good start, but in reality, it s not even close to providing any meaningful relief to bars and restaurants. Here s why:

(1) If we are being honest, not many people are going to buy beer/wine from restaurants with a mixed beverage permit. For example, let s take a Mexican restaurant. If I m a Joe Q Texan ordering fajitas to go, I m not going to pay \$4/beer when I own that beer at home. If I m a Joe Q Texan ordering a steak from a fine dining restaurant, I m not paying the markup for the bottle of wine. But, you know what I WILL pay for? The craftsmanship of a margarita to go, or a delicious martini or Manhattan. I m paying for the craftsmanship and service of making that drink. I m paying for myriad of ingredients that go into the margarita, martini or Manhattan. I don t have all of those special bitters, vermouth, citrus concoctions and syrups needed to make a quality cocktail. I don t own a margarita machine. And, THAT is something in which people have already shown through social media that they are desperate to pay for.

(2) A 375ml limitation on bottle size makes no sense and only hurts restaurants, not helps them. But, who has 375ml bottles? No one. Yes, the current waiver allows a restaurant the opportunity to sell back inventory to wholesalers and distributors, but what good does that do if that distributor or retailer doesn t want to buy it back? And, why would they? It s not like they can move the inventory to someone else. In short, limiting the bottle sizes to 375ml is really forcing restaurants to buy MORE inventory, when the point should be to allow them to reduce it.

(3) Even the concept of "cocktail kits" doesn't really work. Take a Manhattan, which has three ingredients: bitters, vermouth and whiskey. It is impractical to sell 375ml bottles of all of those. It plain defeats the purpose of selling it "to go". If a customer wants that, they'll just go to a liquor store. Further, even margarita "cocktail kits" don't work as there is tequila and another citrus liquor to make it work, and they are in different quantities. Bottom line, while it seems like a "give" by Governor Abbott, in reality, it's a facade.

Bottom line I'm hearing from literally hundreds of clients per day. Selling mixed beverages by the glass is the heart and soul of a restaurant. It's what keeps the lights on and staff employed. If the state has ANY desire for restaurants to survive this closure, this has to be done, and done VERY, VERY quickly. And, this can be done easily and without much change to the law. As it currently stands, beer and wine permit holders can already sell open containers "to-go". Winearitas are already sold in a drive-thru format, with straw holes sealed with stickers to ensure the package is closed. There is no reason why mixed beverages cannot be implemented in the same fashion.

I URGE YOU TO PLEASE IMPELORE THE GOVERNOR'S OFFICE TO IMMEDIATELY ALLOW MIXED BEVERAGE PERMIT HOLDERS TO SELL ALCOHOL "TO-GO" ON A "BY THE DRINK BASIS". It would have so many benefits:

1. It will allow all alcohol inventories to be immediately reduced.
2. It will generate MUCH needed cash flow for businesses.
3. It will generate MUCH needed revenue for distributors and wholesalers, and get their delivery employees back in their trucks.
4. It will incentivize customers to order food "to-go" and spend a little bit more money.
5. It will keep the food suppliers' businesses going as more customers order food "to-go".
6. It will keep more businesses operating, which means it will keep more employees employed.

END OF INQUIRY FROM INDUSTRY



Nick Raymond  
*Director of Government Relations / Executive Division*  
Texas Alcoholic Beverage Commission  
Office: (512) 206-3365  
Cell: ( )  
Nick.Raymond@tabc.texas.gov

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