



TEXAS ALCOHOLIC BEVERAGE COMMISSION

Texans Helping Businesses & Protecting Communities

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INDUSTRY NOTICE July 30, 2020

To: Businesses That Sell Directly to Consumers

Re: Updating Your Gross Receipts

The following information does not allow a business to circumvent the requirements in [Executive Order GA-28](#) or any subsequent executive order.

Overview

You can update your business's gross receipts in order to establish that your business derives less than 51% from the sale of alcoholic beverages by following the process below.

Process

Under limited circumstances, retailers may update their gross receipts calculation to qualify as a restaurant under GA-28 and provide dine-in services to the public. You may either:

- Fill out the **Alcohol Sales Reporting Affidavit** ([Retailer Version](#) | [Producer Version](#)), or
- Apply for a **Food and Beverage Certificate**.

Alcohol Sales Reporting Affidavit

If your business has recently been operating at less than 51% alcohol sales, you may complete and submit TABC's Affidavit Reporting Alcohol Sales to qualify as a restaurant under GA-28. This calculation must be based on your business's gross receipts from April 1 through the date of submission to TABC. The calculation must include the following figures:

- All on-premise sale of alcoholic beverages;

- All on-premise and to-go food sales; and
- All non-alcohol and non-food sales (e.g., T-shirts and other merchandise).

This calculation should *not* include off-premise (to-go, delivery, or retail) or wholesale sales of alcoholic beverages. Businesses must maintain records establishing the recent change in alcohol sales.

To update your 51% status under this method, fill out the Alcohol Sales Reporting Affidavit ([Retailer Version](#) | [Producer Version](#)) and submit to audit@tabc.texas.gov. Your 51% status will not change until TABC has notified you directly that you may begin operating under a new status. Until then, you must follow the requirements under GA-28 for your current TABC 51% status.

Applying for Food and Beverage Certificate

If you have changed or will change your business model to incorporate permanent food service facilities, you may [apply for a Food and Beverage Certificate \(FB\)](#) from TABC. These include increased kitchen capacity and permanent food trucks. To qualify for an FB, a business must meet the requirements set out in Rule 33.5 and [submit the application](#) and appropriate fees to [your local TABC office](#).

Applying for an FB allows businesses to include projected sales to reflect changing business models and practices. However, please note that possession of an FB does not guarantee that your business may operate as a restaurant under GA-28. You are still limited to less than 51% on-premise alcohol sales as detailed above. A business that applies for and obtains an FB and subsequently operates in violation of GA-28 is subject to administrative action. If you have any questions, please contact your local TABC office to ensure you qualify.

Alcoholic Beverage Producers with Taprooms

If you are a Manufacturer, Distiller, Brewer, or Winery and operate a taproom or tasting room, the 51% threshold under GA-28 applies to those dine-in services in the same manner as it does above for retailers. The calculation does not include alcohol sold to-go or to another permit or license holder. It does include all food and alcohol sales for on-premises consumption as well as to-go food sales and other merchandise (e.g., T-shirts, glassware). If alcohol sales are grouped with another non-alcohol charge as a

package (tour/tasting fees), businesses should segregate the non-alcohol fees and include those in their calculation.

Because these businesses do not otherwise report this data on their original or renewal applications, you will need to submit an affidavit projecting your future sales under your current business model in order to provide dine-in services. These businesses must maintain current and ongoing sales data in order to prove the business's eligibility when requested by TABC's audit staff. There is no need to submit underlying sales data records along with the affidavit unless requested by audit.

NOTE: You must still comply with all social distancing, capacity, and other health and safety protocols as required by local, state, and federal law and Executive Order GA-28, including any subsequent orders.