



RISK-BASED INSPECTIONS

Enforcement Division
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POLICY

The Texas Alcoholic Beverage Commission (TABC) performs its statutory duty of protecting the welfare, health, peace, temperance and safety of the people of Texas by conducting risk-based inspections, which focus enforcement operations on locations that present a public safety risk.

Violations involving minors, intoxicated persons, drugs, breaches of the peace, and consumption or sales during prohibited hours are generally a risk to public safety. The TABC refers to these breaches of the law as *public safety violations*.

The Enforcement Division will monitor the occurrence of public safety violations and will conduct risk-based inspections of locations on which a public safety violation has occurred in the previous 12 months. Certified peace officers (CPOs) will communicate with permittees or licensees of these locations and will inspect and provide assistance to the permittees or licensees until the public safety risk is eliminated or greatly diminished.

Success of risk-based inspections will be measured by the increase of voluntary compliance of priority locations as well as all permittees and licensees.

ROLES AND RESPONSIBILITIES

- a. **All Certified Peace Officers shall** understand the development and function of the priority list, and other related information.
- b. **Enforcement Headquarters shall:**
 1. Monitor priority locations' violation histories.
 2. Develop, maintain, and distribute the priority list and any other reports necessary for implementing a risk-based inspection and measuring its success.
 3. Facilitate statewide training, in conjunction with the Legal Services Division, on risk-based inspections to certified CPOs.
 4. Ensure statewide consistency in the planning and execution of risk-based inspections.
 5. Determine whether risk-based inspections are successful by measuring voluntary compliance.
 6. Report the status and results of risk-based inspections to executive management upon request.
- c. **Regional Captains shall:**
 1. Oversee risk-based inspections and ensure consistency across the region.

2. Review the priority list and other related reports.
 3. Report to Enforcement Headquarters the status and results of risk-based operations, when appropriate.
- d. **District Lieutenants shall:**
1. Advise and assist sergeants and agents in planning and executing risk-based inspections.
 2. Contact priority locations and conduct notification meetings according to the procedures in this section, or assign this duty to a sergeant or agent.
 3. Provide training and other assistance and advice to retailers, or assign this duty to a sergeant or agent.
- e. **Sergeants shall:**
1. Provide agents with training, information and other appropriate resources prior to the execution of a risk-based inspection.
 2. Contact priority locations and conduct notification meetings as assigned by a lieutenant according to the procedures in this section.
 3. Perform risk-based inspections as assigned by a supervisor, or assign this duty to an agent.
 4. Provide training and other assistance and advice to retailers as directed by a supervisor, or assign this duty to an agent.
- f. **Agents shall:**
1. Contact priority locations and conduct a notification meeting as assigned by a sergeant or supervisor according to the procedures in this section.
 2. Perform risk-based inspections as assigned by the sergeant.
 3. Provide training and other assistance and advice to retailers.

PROCEDURES

a. **Identifying Priority Locations: The Priority List**

1. The Enforcement Division will use the agency computer system to monitor histories of public safety violations.
2. The agency computer system will place locations on the priority list based on the type of violation.
3. When more than one violation occurs during one incident, these violations will count as only one violation for the purpose of the priority list. A location can only be listed once on the list at any time.

4. **PRIORITY THREE.** A location will be listed as *priority three* when:

- the location was previously classified as a *priority two* location and it has been six months since the most recent violation; or
- the location was not previously classified as a priority location and a CPO issues a citation for a *priority three violation*.

Priority Three Violations

Misdemeanors committed on a licensed premises by any person—typically a person other than a permittee or licensee.

Code	Criminal Violations	Category
100	Possession or Consumption of A/B by Minor	Minors
101	Possession or Consumption of A/B by Juvenile	Minors
102	Making A/B Available to Minor	Minors
103	Making A/B Available to Juvenile	Minors
106	Misrepresentation of Age by Minor	Minors
107	Misrepresentation of Age by Juvenile	Minors
108	Consumption of A/B During Prohibited Hours	Prohibit
150	Attempted Purchase of A/B by Minor	Minors
151	Attempted Purchase of A/B by Juvenile	Minors
200	Public Intoxication	Intox
201	Disorderly Conduct	Breach
204	Unlawful Carrying of Weapon	Breach
207	Offenses Against Property	Breach
208	Assaultive Offenses	Breach
209	Resisting or Evading Arrest	Breach
211	Possession of Marijuana	Drugs
212	Possession of Drug Paraphernalia	Drugs
213	False or Altered Identification	Minors
215	Possession of a Controlled Substance	Drugs

5. **PRIORITY TWO.** A location will be listed as *priority two* when:

- the location was previously classified as *priority one* and has completed three consecutive inspections without a CPO issuing citations for any additional *public safety violations*;
- the location was previously classified as a *priority three* and a CPO issues one or more additional citations for *priority two* or *priority three public safety violations* on the licensed premises; or
- the location was not previously classified as a priority location and a CPO issues a citation for a *priority two public safety violation*.

Priority Two Public Safety Violations

Misdemeanors committed by a permittee or licensee on the licensed premises or felonies committed by any person

Code	Criminal Violations	Category
104	Sale, Service, Delivery, or Making Available A/B to Minor	Minors
105	Sale, Service, Delivery, or Making Available A/B to Juvenile	Minors
109	Permitting Consumption of A/B During Prohibited Hours	Prohibit
110	Sale, Service, or Delivery of A/B During Prohibited Hours	Prohibit
111	Consumption of A/B During Prohibited Hours by Permittee/Licensee	Prohibit
112	Permittee/Licensee Intoxicated on Licensed Premises	Intox
113	Sale, Service, or Delivery of A/B to Intoxicated Person	Intox
300	Unauthorized Carrying of Weapon on Licensed Premises	Breach
301	Offenses Against Property	Breach
302	Assaultive Offenses	Breach
303	Resisting or Evading Arrest	Breach
304	Possession of Marijuana	Drugs
305	Possession of Cocaine	Drugs
306	Possession of Other Drugs	Drugs
307	Sale or Delivery of Drugs	Drugs

6. **PRIORITY ONE.** A location will be listed as priority one when a CPO enters into the agency computer system a “violation follow up” after issuing an administrative notice for one of the following *priority one violations*.

Priority One Public Safety Violations

Administrative violations committed by a permittee or licensee

Code	Violation	Category
502	Permitting Possession or Consumption of A/B by Minor Age 17 & Under	Minors
503	Permitting Possession or Consumption of A/B by Minor Age 18 & Over	Minors
504	Sale to Minor	Minors
511	Simple Breach	Breach
512	Aggravated Breach	Breach
531	Possession of Drugs by Permit/License Holder	Drugs
532	Possession of Drugs by Agent, Servant, or Employee	Drugs
533	Sale or Delivery of Drugs by Permit/License Holder	Drugs
534	Sale or Delivery of Drugs by Permittee	Drugs
535	Permit/License Holder Permitting Any Person to Sell, Deliver, or Possess Drugs	Drugs
536	Employee, Agent, Servant, or Employee Permitting Any Person to Sell, Deliver, or Possess Drugs	Drugs
537	Sale, Delivery, or Possession of Drug Paraphernalia by Permit/License Holder	Drugs
538	Sale, Delivery, or Possession of Drug Paraphernalia by Agent, Servant, or Employee	Drugs
561	Sale to an Intoxicated Person	Intox
562	Permittee/Licensee Intoxicated on Licensed Premises	Intox
563	Sale to an Obviously Intoxicated Person	Intox
600	Sale of Wine Over 17% During Prohibited Hours	Prohibit
601	Sale, Service, or Delivery of A/B During Prohibited Hours	Prohibit
602	Sale of Wine over 14% During Prohibited Hours	Prohibit
603	Sale of A/B Sunday, 1am-2am Where Prohibited	Prohibit
604	Consumption During Prohibited Hours by Permittee/Licensee	Prohibit
605	Permit/License Holder Permitting Consumption During Prohibited Hours	Prohibit
606	Agent, Servant, or Employee Permitting Consumption During Prohibited Hours	Prohibit
787	Place or Manner: On-Premises Promotions	Intox
788	Place or Manner: MB Permittee Permitting Consumption During Prohibited Hours	Prohibit

b. General Inspection Schedule.

1. Every two weeks, the lieutenant or sergeant responsible for each office will access updated *Priority Locations Needing Inspection* reports on the agency computer system.
2. Locations appear on *Priority Location Needing Inspection* reports based on priority level and length of time since the previous inspection.

Priority Level	Inspection Frequency
Priority One	Bi-weekly
Priority Two	Monthly
Priority Three	Quarterly

c. Notification Meeting for Priority One and Priority Two Locations.

1. Lieutenants or another designated CPO will hold notification meetings with priority one and priority two locations. (A second notification meeting is not required when a location moves down from priority one to priority two.)
2. The CPO will attempt to arrange a notification meeting with the license or permit holder of the priority location. If the license or permit holder is not an individual, the CPO will attempt to arrange a meeting with the person in charge of operations and the owner of the location. If these persons are unavailable, the CPO will arrange a meeting with a manager of the location.
3. At the notification meeting, the CPO will explain the following topics:
 - the general operation and purpose of risk-based inspections;
 - the priority list;
 - the reason the location is listed on the priority list;
 - the general inspection schedule for the different levels of the priority list; and
 - the possibility that some inspections may be conducted undercover.
4. The CPO will offer an educational program to the representative at the notification meeting. If the representative decides to participate in training, the CPO will schedule the training within a reasonable time period.
5. The CPO may also offer other assistance to the representative at the notification meeting including general suggestions of “best practices” and ways to prevent violations of the Alcoholic Beverage Code, Commission Rules and other related laws.
6. The CPO will create a record of the notification meeting in his or her *Daily Activity Report* by the next workday. For each location contacted, the report should include:
 - the date and time of the notification meeting;

- the full names and titles of the representatives of the licensed premises present at the notification meeting;
- a description of the issue(s) discussed;
- a statement of whether training was accepted; and
- if training was accepted, a statement of when the training is scheduled.

d. Training for Priority One and Priority Two Locations.

1. The lieutenant will deliver an educational program at the scheduled time, or will delegate this duty to another CPO.
2. The CPO will create a separate record for each location trained in his or her *Daily Activity Report* by the next workday. The report should include:
 - the date and time of the training;
 - the permit or license number;
 - the trade name of location; and
 - the full names and titles of the representatives of the licensed premises present at the meeting.
3. To record the full names and titles of the representatives of the licensed premises present at the meeting, the CPO may use the *Education Program Sign-In Sheet* and attach it to the *Daily Activity Report*.

e. Conducting Inspections According to the Priority List.

1. The TABC will allow locations one of the following specified time periods to make operational changes. Lieutenants will ensure that sergeants and agents observe these time periods.
 - A sergeant or supervisor will not assign CPOs to conduct a risk-based inspection of a location whose representatives complete training until the 20th calendar day after the training.
 - If representatives of a location schedule training then later fail to attend or do not complete the training, a sergeant or supervisor will not assign CPOs to conduct a risk-based inspection of the location until the 5th calendar day after the notification. If this day has already passed, a sergeant or supervisor will ensure that the location is immediately inspected.
 - Sergeants will not assign CPOs to conduct a risk-based inspection of a location whose representatives reject training until the 5th calendar day after the notification meeting.
2. Sergeants will use the agency computer system to record education data in order to update a list of priority locations to be inspected.
3. Sergeants will create a work plan that includes inspections at one or many priority

locations.

4. Sergeants will assign roles and responsibilities to CPOs and will oversee the execution of risk-based inspections.
5. Sergeants will ensure that CPOs enter risk-based inspections into their *Daily Activity Reports* and into the agency computer system. CPOs will identify risk-based inspections in the agency computer system by using the “priority” activity class.
- f. **Removal from the Priority List.** The agency computer system will remove a location from the priority list when 12 months have elapsed since the date of the most recent public safety violation.

FORMS

Daily Activity Report

Education Program Sign-In Sheet

Priority Locations Needing Inspection
