

Texas Alcoholic Beverage Commission

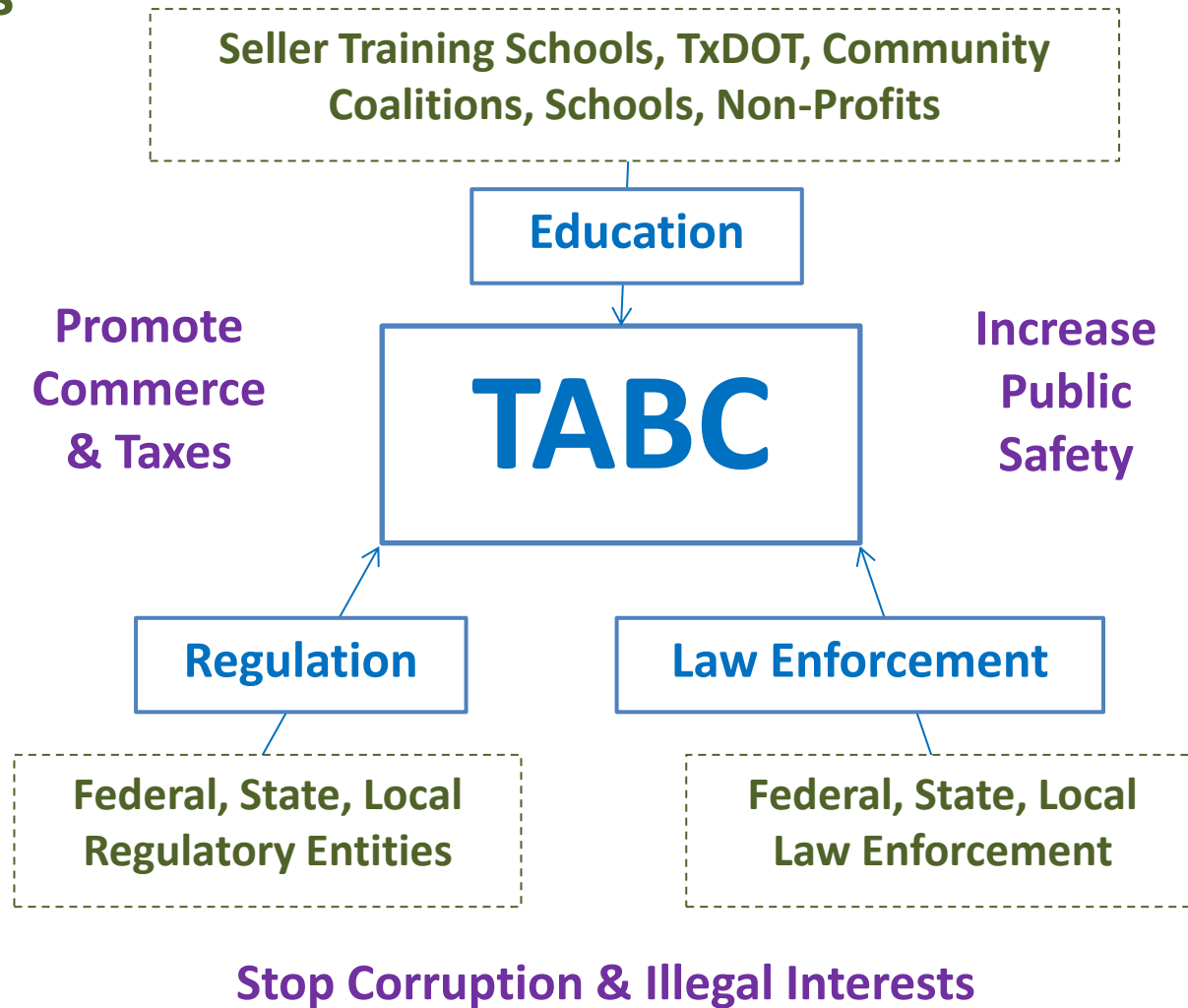
Licensing and Administrative Procedures

Sherry Cook, Executive Director

October 16, 2014

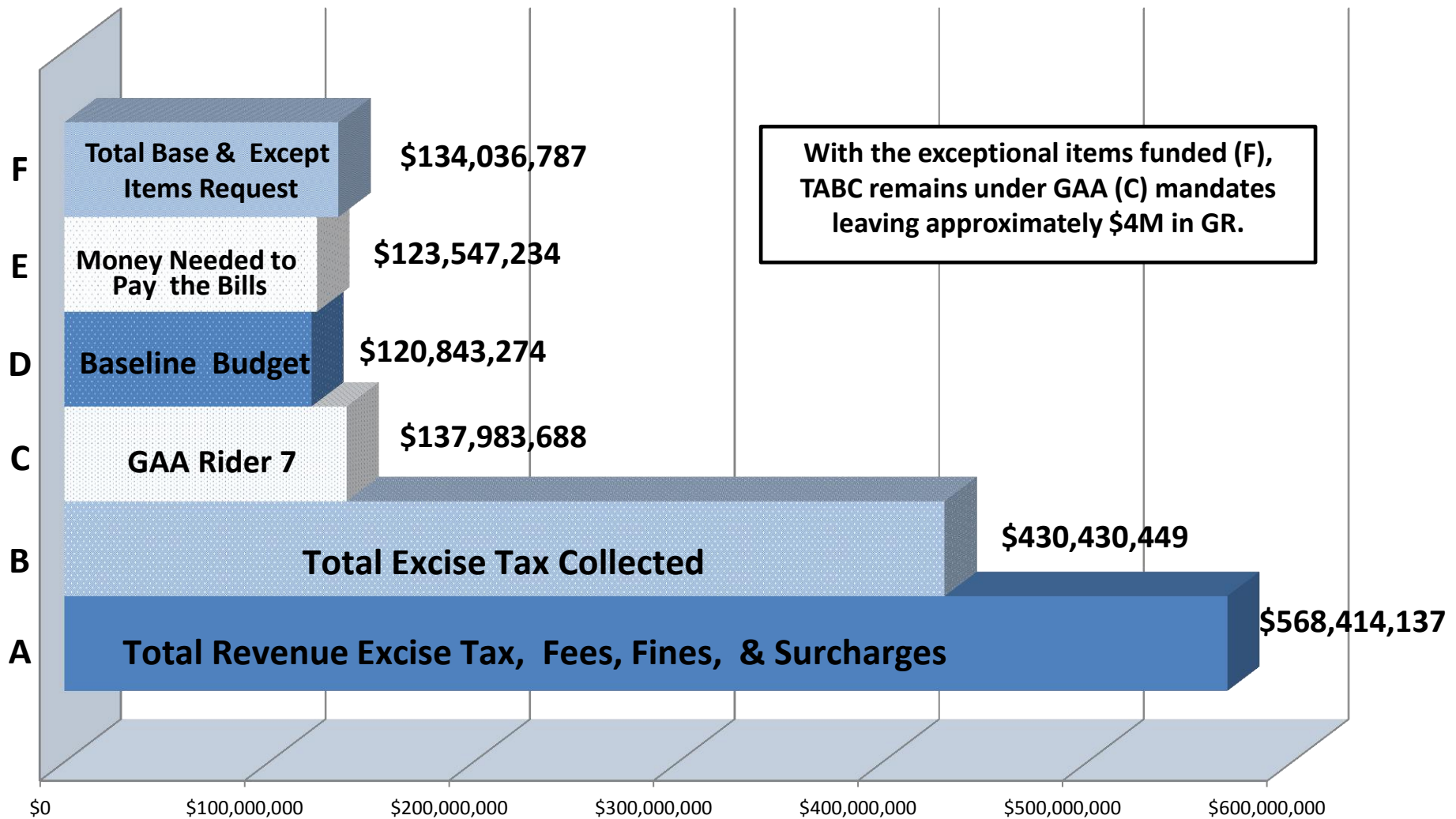


Our Organization
Our Mission
Our Partners



Revenue Collections Compared to Appropriations FY 16-17

GAA Rider 7 requires TABC to collect revenue from fees, fines and surcharges to cover appropriations.



The Three-Tier System

before the 83rd Legislative Session



KEY

Manufacturing



Distributing



Retailing



The Three-Tier System

after the 83rd Legislative Session

Manufacturing

Large Brewers
& Manufacturers

Distributing

Beer Distributors

Retailing

Off-Premise
Beer/Ale/Wine
Stores

Small Brewers & Manufacturers

On-Premise Sales to Visitors

On-Premise
Restaurants,
Bars, Venues &
Private Clubs

Brewpubs

Brewpubs can sell to distributors.
Those who sell only their own brew can sell to retailers.

Brewpubs

Wineries

Wineries
Shipping
Direct to
Consumers



KEY

Distilleries

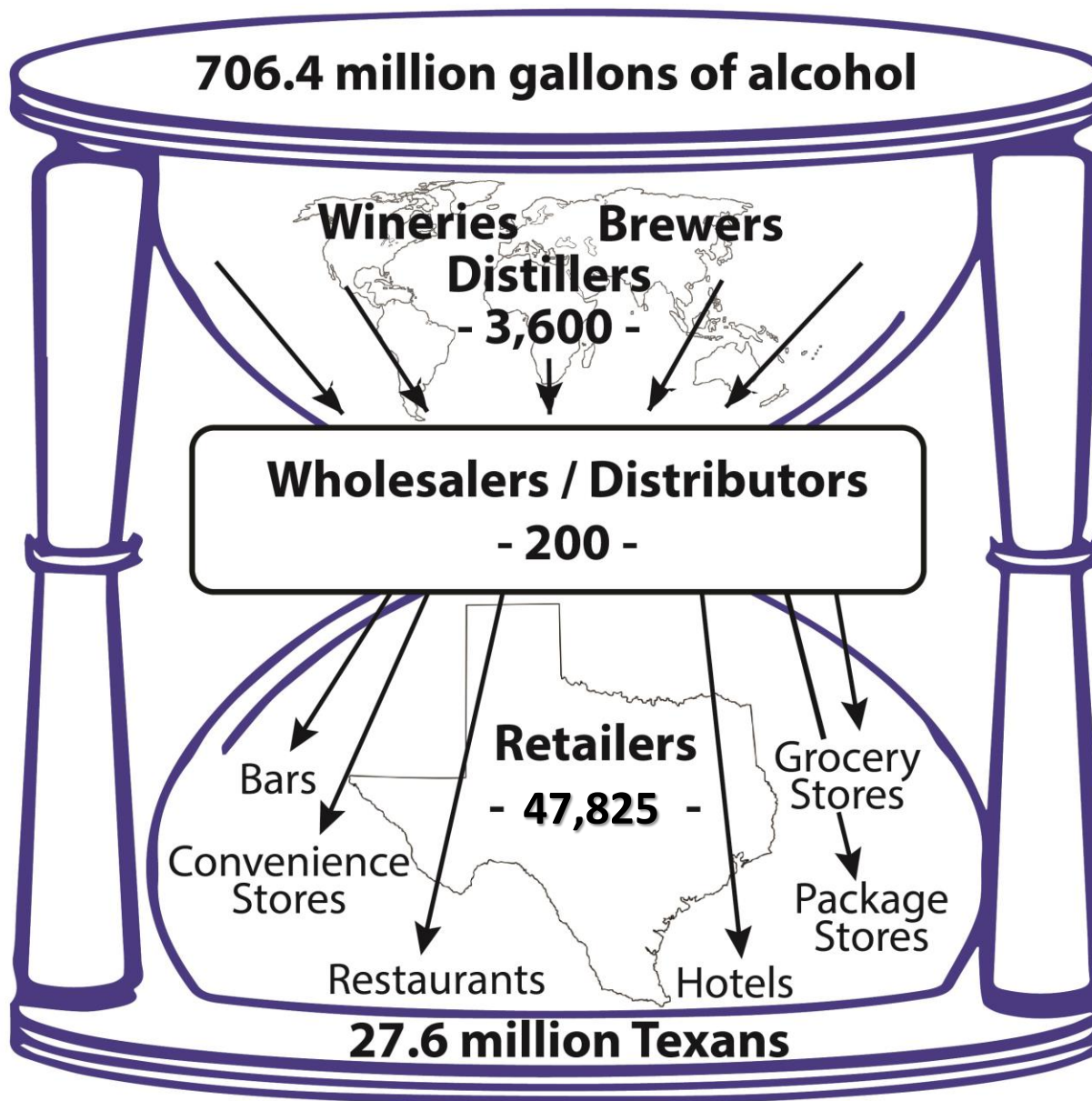
Ale, Wine and
Distilled Spirits
Wholesalers

Local Distributors

Package Stores

Distilleries

On- and Off-Premise Sales to Visitors

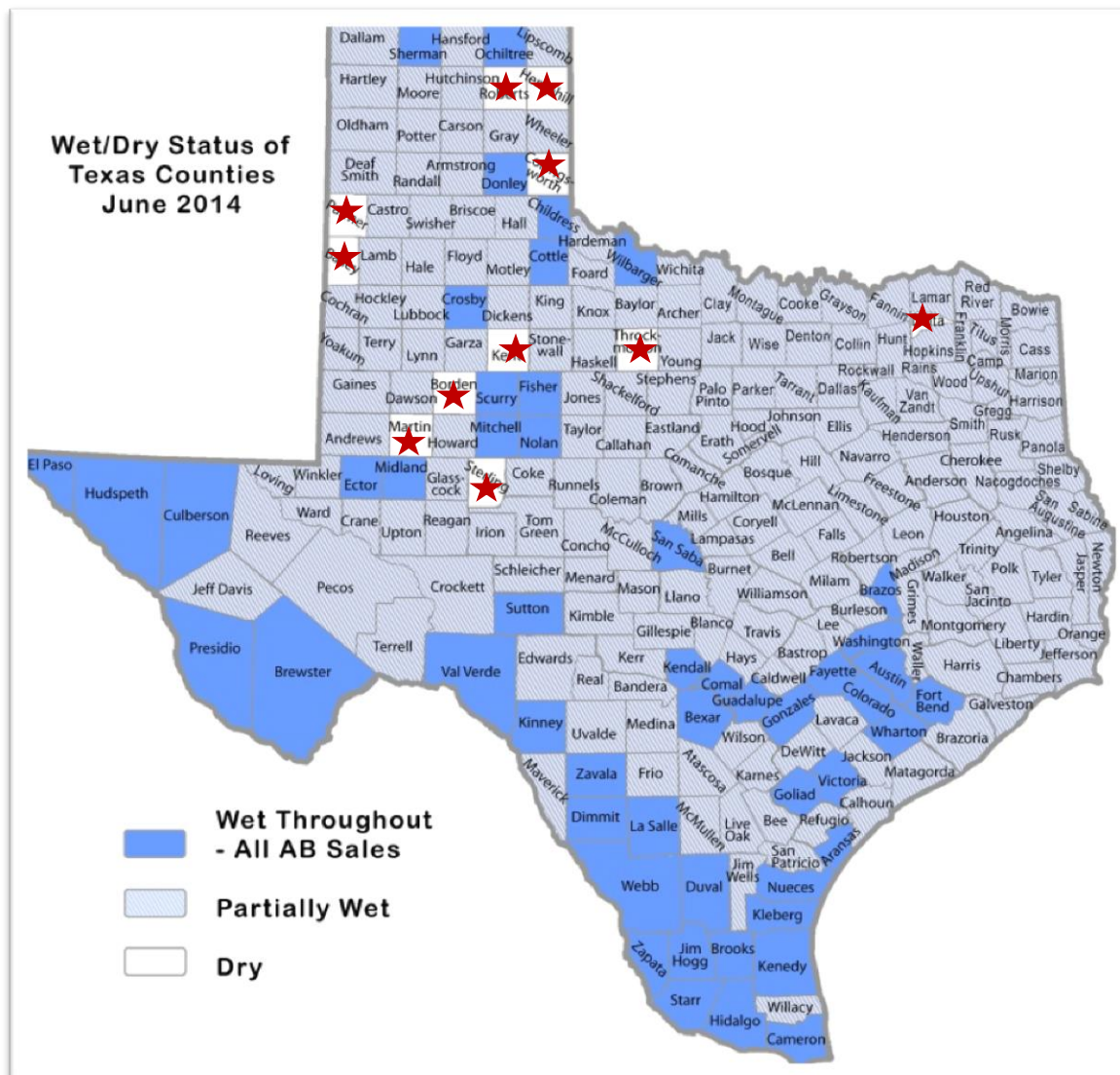


June 2014

51 Counties Totally Wet for All Sales
11 Totally Dry Counties

Elections can be held by city, county, or justice precinct on 10 issues:

1. The sale of beer for off-premise consumption only.
2. The sale of beer on and off premise.
3. The sale of beer and wine for off-premise consumption only.
4. The sale of beer and wine on and off premise.
5. The sale of all alcoholic beverages for off-premise consumption only.
6. The sale of all alcoholic beverage except mixed beverages.
7. The sale of all alcoholic beverages including mixed beverages.
8. The sale of mixed beverages.
9. The sale of mixed beverages in restaurants only.
10. The sale of wine on the premises of a holder of a winery permit.



Cadena Commercial USA Corp. d/b/a OXXO

v.

Texas Alcoholic Beverage Commission

Cadena Comercial USA Corp. d/b/a OXXO (Cadena) challenges an administrative order denying its original application for a wine and beer retailer's off-premise permit. The decision determined that granting Cadena's permit application would violate provisions in the Texas Alcoholic Beverage Code that prohibit "tied house" relationships among the three tiers of the alcoholic-beverage industry—manufacturers, distributors, and retailers.

Mark Anthony Brewing, Inc.

v.

Texas Alcoholic Beverage Commission



TABC rules ban malt beverage labels from including the name, trade name or trademark of a retailer. Trial is scheduled for December.

Challenges in the Alcoholic Beverage Code

Challenge	Statutory Citation
Consideration to Ban Powdered alcohol. NY Senate passed a bill that would prohibit anyone from selling, offering for sale or providing for consumption, any powdered or crystalline alcoholic product. Alaska has already outlawed powdered alcohol and legislation to ban has been approved in South Carolina and Vermont.	The Alcoholic Beverage Code does not address powdered alcohol.
Current law requires TABC to approve any wine/spirits product approved by the federal government with no discretion.	§101.671 Prior Approval of Distilled Spirits and Wine. On registration of a certificate of label approval issued by the United States Alcohol and Tobacco Tax and Trade Bureau, the commission shall approve the product under this section.
Last session, TABC appropriations for operational expenses were transferred to a college for wine-related research. Future transfers could reach \$495,000 a year. Should the funds come out of General Revenue?	§205.03 Exception for Certain Wine-Related Revenue says if excise tax and sales tax revenue on wine is high enough, funds should be provided for winemaking and grape growing education and research. <u>It is unclear where these funds should come from.</u>

1. Civilian Employee Career
Ladder/Retention Plan

2. Facility Lease Increases

3. Fuel Cost Increases

4. Public Safety Programs

5. Public Safety Radios

6. Public Safety Vehicles

7. Information Technology
Improvements

8. Centralized Accounting/
Payroll/Personnel System

9. Personnel Operating Cost
Increases (Long/Haz/Lump)

10. Personnel Operating Cost
Increases (Insurance/Retire)

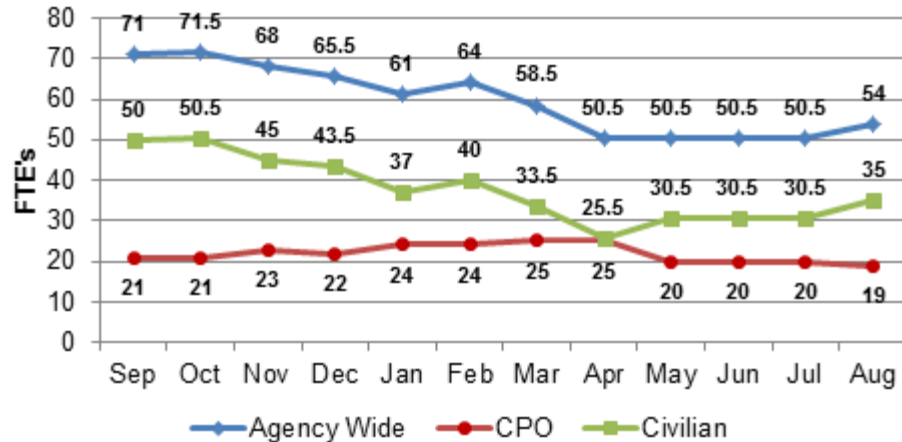
11. Grayson College Reduction

Factors Driving TABC's LAR Request

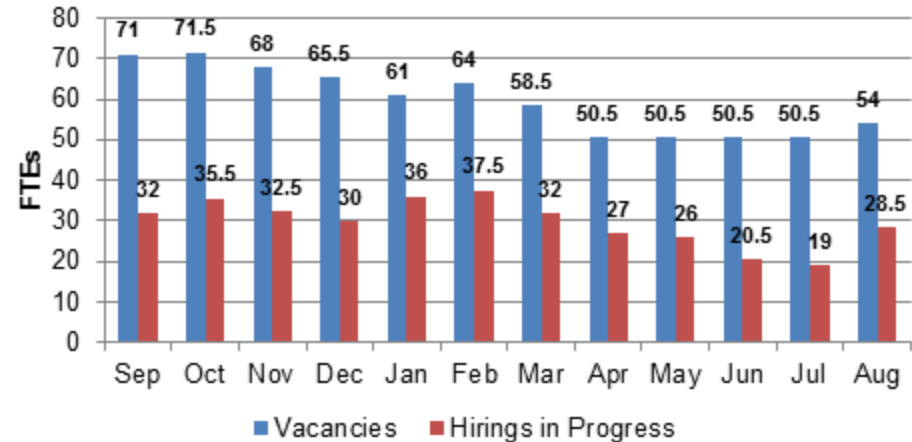
Growth Areas	2009	2014
Gallons Alcohol Sold	684.6 MGAL	696 MGAL
Population	24.8M	26.6M
Licensed In-State Business	42,992	47,825
Manufacturers/Brewpubs	231	519
Distilleries	11	61
Brewers/Brewpubs	36	147
Wineries	184	311
Label Applications	12,383	19,248
Excise Taxes Collected	\$191M	\$205.6M
Authorized Employees	699	646.8

MANAGING AGENCY RESOURCES

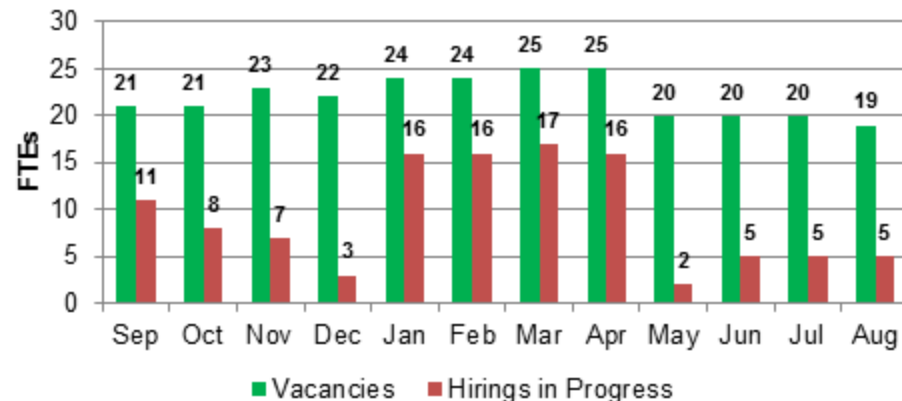
TABC Vacancies
FY 2014



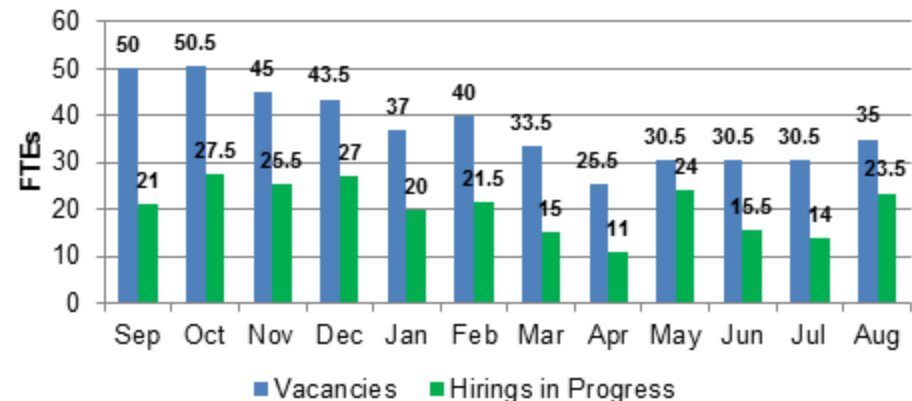
TABC Vacancies & Hirings in Progress
FY 2014 - By Month



TABC CPO Vacancies & Hirings In Progress
FY 2014 - By Month



TABC Civilian Vacancies & Hirings In Progress
FY 2014 - By Month



Challenges Addressed by FY16/17 LAR Exceptional Items

Challenges

- Current Civilian Pay is 14-20% Less than Other State Agencies
- Complexity of Alcoholic Beverage Code Requires Highly Qualified and Trained Employees
- Large Pay Discrepancy Between CPOs and Civilians in TABC Field Offices
- Employees and Family Members are Prohibited from Outside Employment with TABC Licensees

Challenges

- Increasing Operating Expenses, including Leases, Fuel, Mandatory Employee Payouts, Insurance and Retirement Contributions
- Limited additional appropriations to cover these expenses over the past 5-6 years
- Approximately 29 public safety and support FTEs will have to be kept vacant in order to fund these mandatory expenses

1. Civilian Employee Career Ladder/Retention Plan	\$3,503,232
2. Facility Lease Increases	\$672,473
3. Fuel Cost Increases	\$392,684
4. Public Safety Programs	\$3,604,945
5. Public Safety Radios	\$1,489,132
6. Public Safety Vehicles	\$480,000
7. IT Improvements	\$1,074,000
8. Centralized Accounting / Payroll / Personnel System	\$238,244
9. Personnel Operating Cost Increases (Long/Haz/Lump)	\$580,309
10. Personnel Operating Cost Increases (Insurance/Retire)	\$1,058,494
11. Grayson College Reduction	\$100,000

Challenges

- Increasing Number of Licensed Locations
- Increasing Number of Organized Criminal Activity Investigations and Cases in Licensed Locations
- Increasing Number and Complexity of Marketing Practice and Tier Violations
- Unsupportable and Incompatible Radios
- Aged Vehicle Fleet, Exceeding Comptroller-Established Standard by 20%

Challenges

- Information Security Improvements are Needed to Continue to Secure TABC Licensee Data from Compromise
- Lack of Resources to Support Agency Planned Migration to CPA's Centralized Accounting/ Payroll/Personnel System
- Program in FY17

Challenge

- Diversion of Appropriated Funding from TABC to Higher Education Programs Impacts Agency Mission

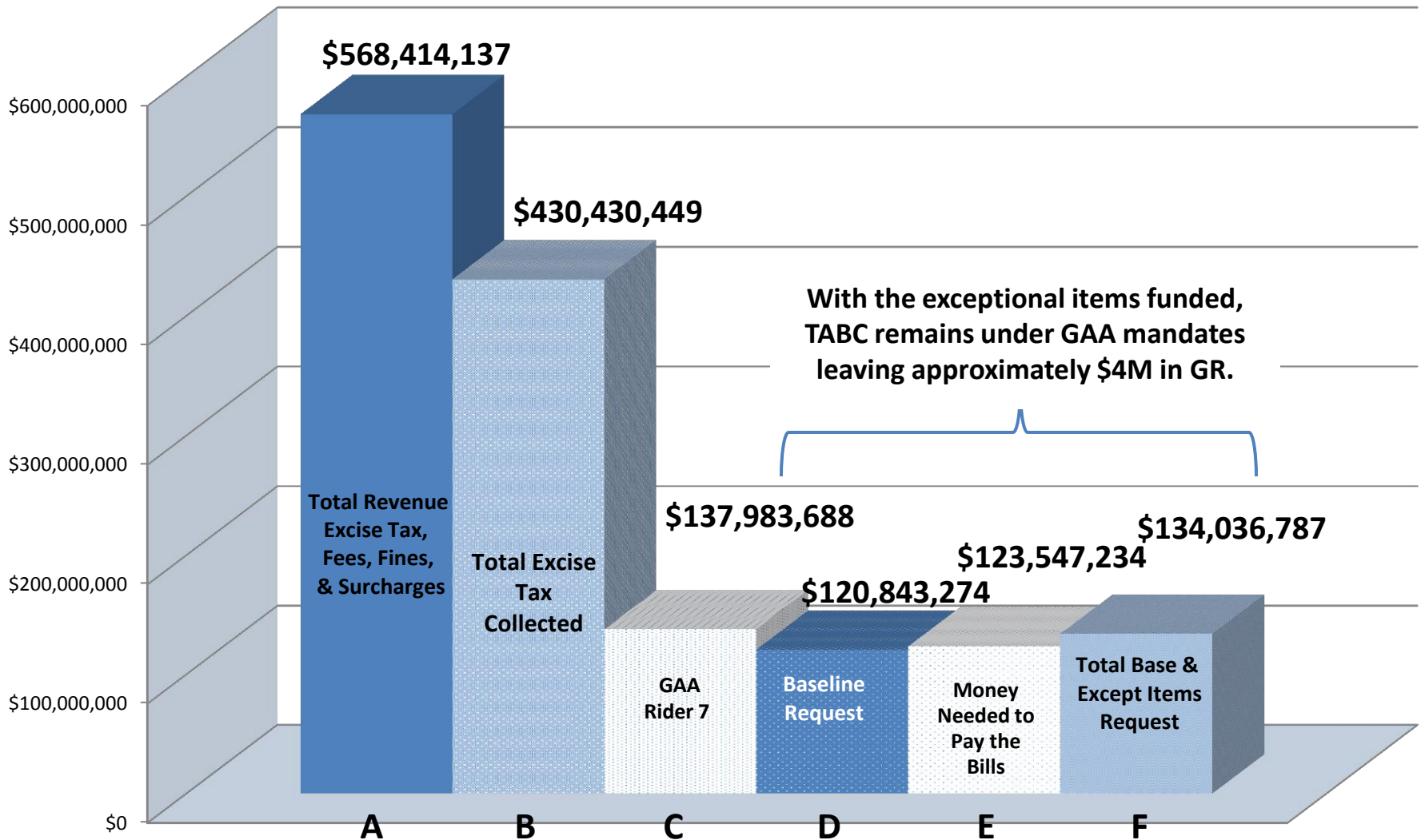
11. Grayson College Reduction \$100,000

- Diversion of Appropriated Funding from TABC to Higher Education Programs Impacts Agency Mission
- **Contingency Appropriation-Wine Related Revenue.** Pursuant to 205.03, the Alcoholic Beverage Code authorizes funding to institutions of higher education for viticulture education. This section of the Code is due to expire September 1, 2015; however, if the 84th Legislature extends the funding, additional funding will be appropriated to TABC in the amount necessary to cover the transfer to other entities for each year of the biennium.
- **Section 205.03 of the Alcoholic Beverage Code authorizes up to \$495,000 in General Revenue in fiscal years 2016 and 2017.**



Revenue Collections Compared to Appropriations FY 16-17

GAA Rider 7 requires TABC to collect revenue from fees, fines and surcharges to cover appropriations.





Questions?

Supplemental Information



- LAR Summary Detail
- Contact Information
- Organizational Chart
- 10% Reduction Schedule
- Exceptional Item Justification “AT-A-Glance”
- Three-Tier-Model
- Seaport Revenue
- Regulatory Oversight

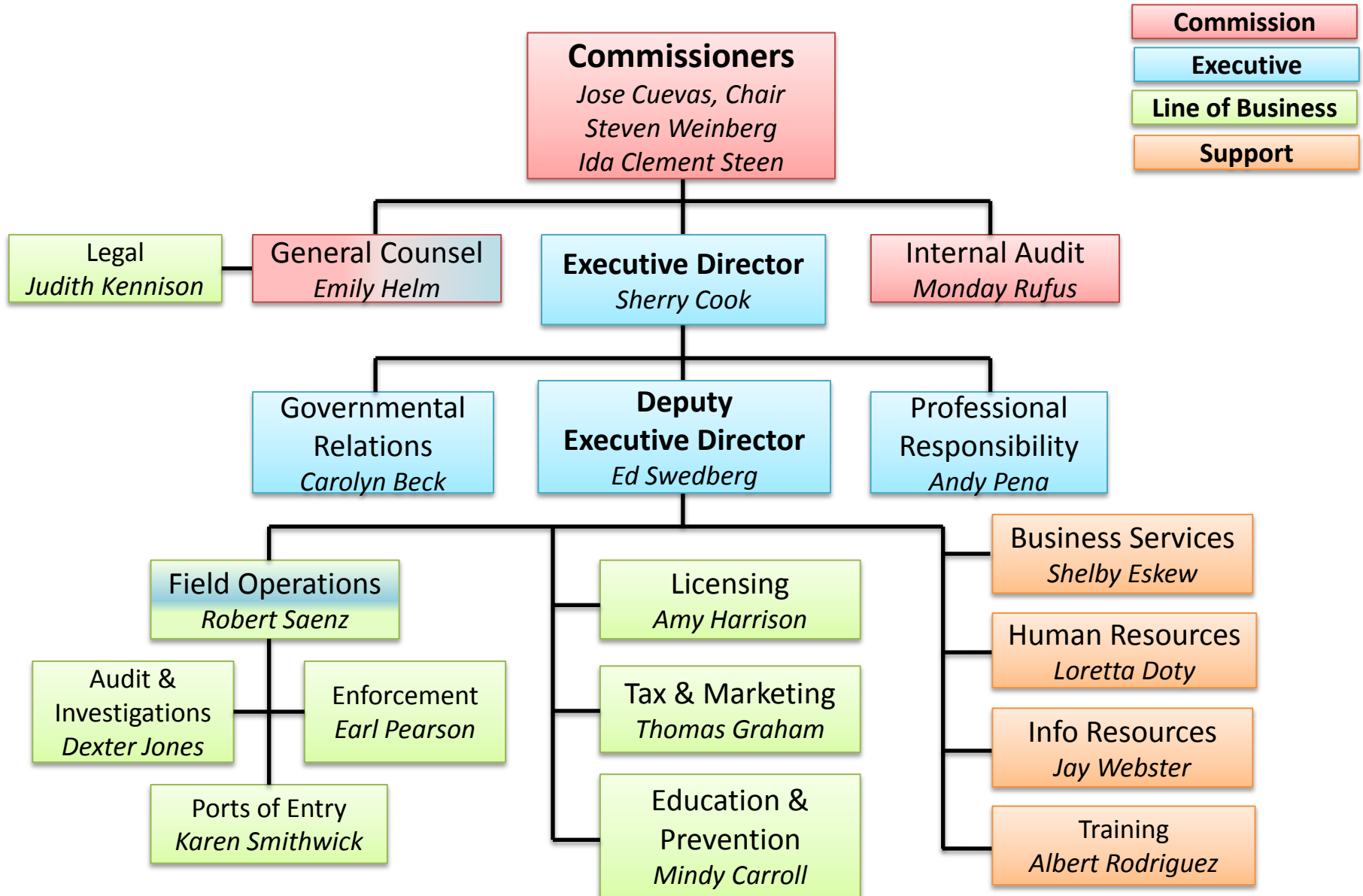
Legislative Appropriations Request FY 16-17

	Biennial		
	FY 2016	FY 2017	Total
General Revenue Base Request	\$47,341,190	\$46,921,406	\$94,262,596
I. Career Ladder / Retention Plan	\$1,749,561	\$1,753,671	\$3,503,232
II. Facility Lease Increases	\$317,833	\$354,640	\$672,473
III. Fuel Cost Increases	\$196,342	\$196,342	\$392,684
IV. Public Safety Programs			
6 Field Enforcement Agents	\$641,885	\$413,635	\$1,055,520
6 Field Special Investigation Agents	708,234	476,384	1,184,618
4 Field Auditors	645,499	719,308	1,364,807
Total, Exceptional Item #4	\$1,995,618	\$1,609,327	\$3,604,945
V. Public Safety Equipment - Radios (183 Mobile APX Radios)	\$470,382	\$1,018,750	\$1,489,132
VI. Public Safety Equipment - Vehicles (20 @ \$24,000)	\$240,000	\$240,000	\$480,000
VII. Information Technology Improvements			
Security	\$242,000	\$247,000	\$489,000
Excise Tax Automation	480,000	105,000	585,000
Total, Exceptional Item #7	\$722,000	\$352,000	\$1,074,000
VIII. Centralized Accounting and Payroll/Personnel System (CAPPS)	\$105,967	\$132,277	\$238,244
IX. Personnel Operating Costs - Long/Hazardous/Lump Sum			
Long/Hazardous Pay Increases	\$130,290	\$150,019	\$280,309
Lump Sum Terminations	150,000	150,000	300,000
Total, Exceptional Item #9	\$280,290	\$300,019	\$580,309
X. Personnel Operating Costs - Insurance/Retirement			
1.0% Insurance Costs	\$350,082	\$355,581	\$705,663
0.5% Retirement Costs	175,041	177,790	352,831
Total, Exceptional Item #10	\$525,123	\$533,371	\$1,058,494
XI. Grayson College Reduction	\$50,000	\$50,000	\$100,000
Total, TABC Exceptional Items	\$6,653,116	\$6,540,397	\$13,193,513
Total, TABC General Revenue Request FY 16-17	\$53,994,306	\$53,461,803	\$107,456,109

Contacts

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- Shelby Eskew, Director of Business Services
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Organizational Chart



10% Biennial Base Reduction Schedule

Note. In the event reduction in resources is considered the following offices have been identified for possible closure:

Abilene
Beaumont
Bryan
Conroe
Corpus Christi
Longview
Richmond
Victoria
Waco
Wichita Falls

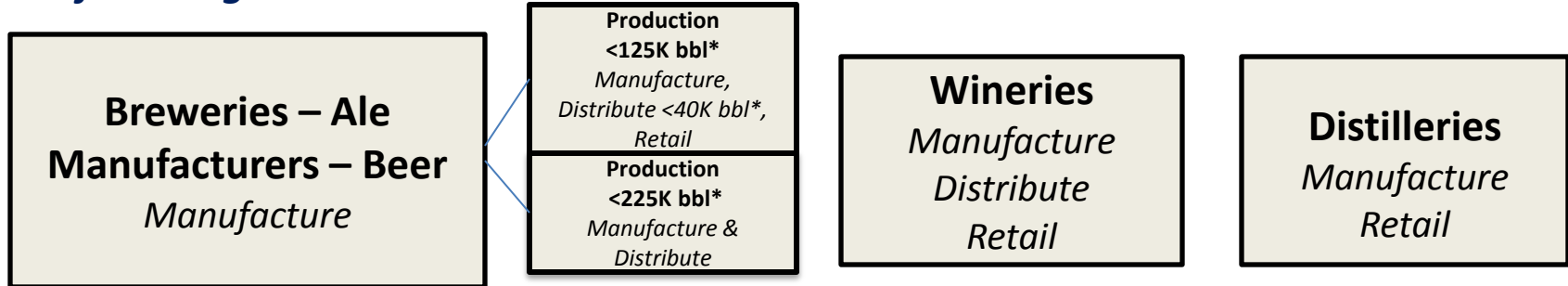
		Biennial Totals	
		Dollars	FTEs
Option #1: 5% Reduction - Reduction of Staff and Office Closures		\$4,404,754	39.0
Strategies Affected			
A.1.1. Enforcement		\$2,443,452	19.0
B.1.1. Licensing and Investigation		376,620	2.0
C.1.1. Compliance Monitoring		1,303,242	13.0
C..2.1. Ports of Entry		281,440	5.0
Total, Option #1: 5% of Total Reduction		\$4,404,754	39.0
Option #2: 2.5% Reduction - Reduction of Staff		\$ 2,202,376	24.0
Strategies Affected			
A.1.1. Enforcement		\$1,291,418	12.0
B.1.1. Licensing and Investigation		197,548	2.7
C.1.1. Compliance Monitoring		544,546	6.3
C..2.1. Ports of Entry		168,864	3.0
Total, Option #2: 2.5% of Total Reduction		\$2,202,376	24.0
Option #3: 2.5% Reduction - Reduction of Staff		\$ 2,202,376	25.0
Strategies Affected			
A.1.1. Enforcement		\$795,610	8.0
B.1.1. Licensing and Investigation		192,058	2.7
C.1.1. Compliance Monitoring		1,102,132	12.3
C..2.1. Ports of Entry		112,576	2.0
Total, Option #3: 2.5% of Total Reduction		\$2,202,376	25.0
Total 10% Reduction, TABC		\$ 8,809,506	88.0

Texas Three-Tier System

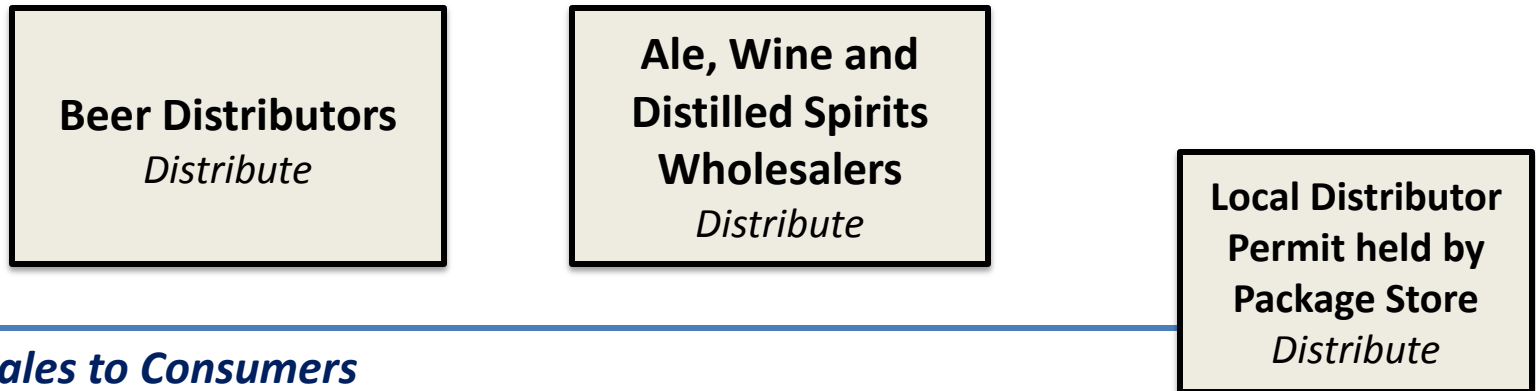
*Annually

*Including Permitholder's Authority
to Manufacture, Distribute and/or Retail*

Manufacturing Tier



Wholesale / Distributor The Middle Tier

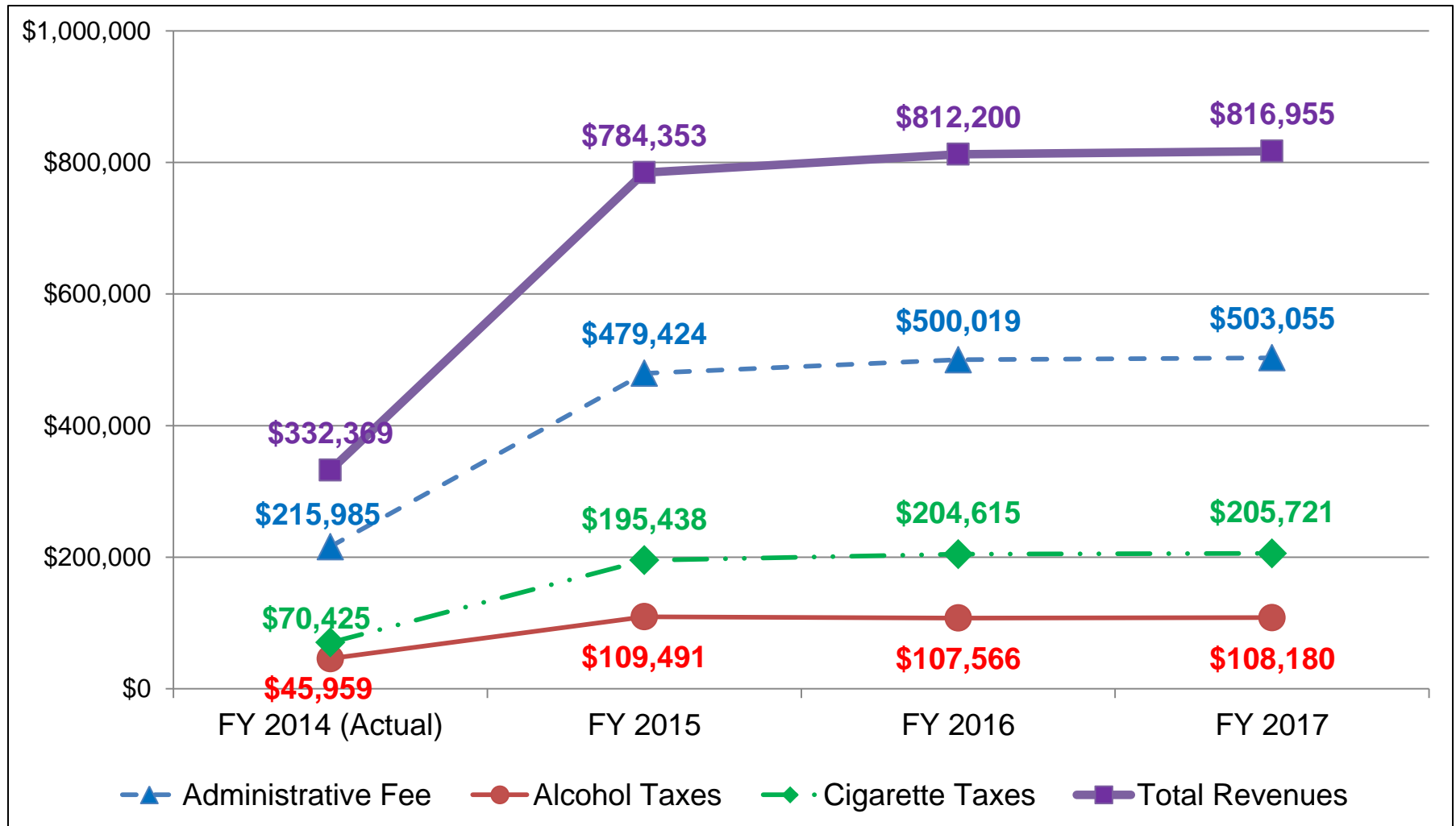


Retail Tier – Sales to Consumers



Seaport Revenue Projections

FY 2014 - FY 2017

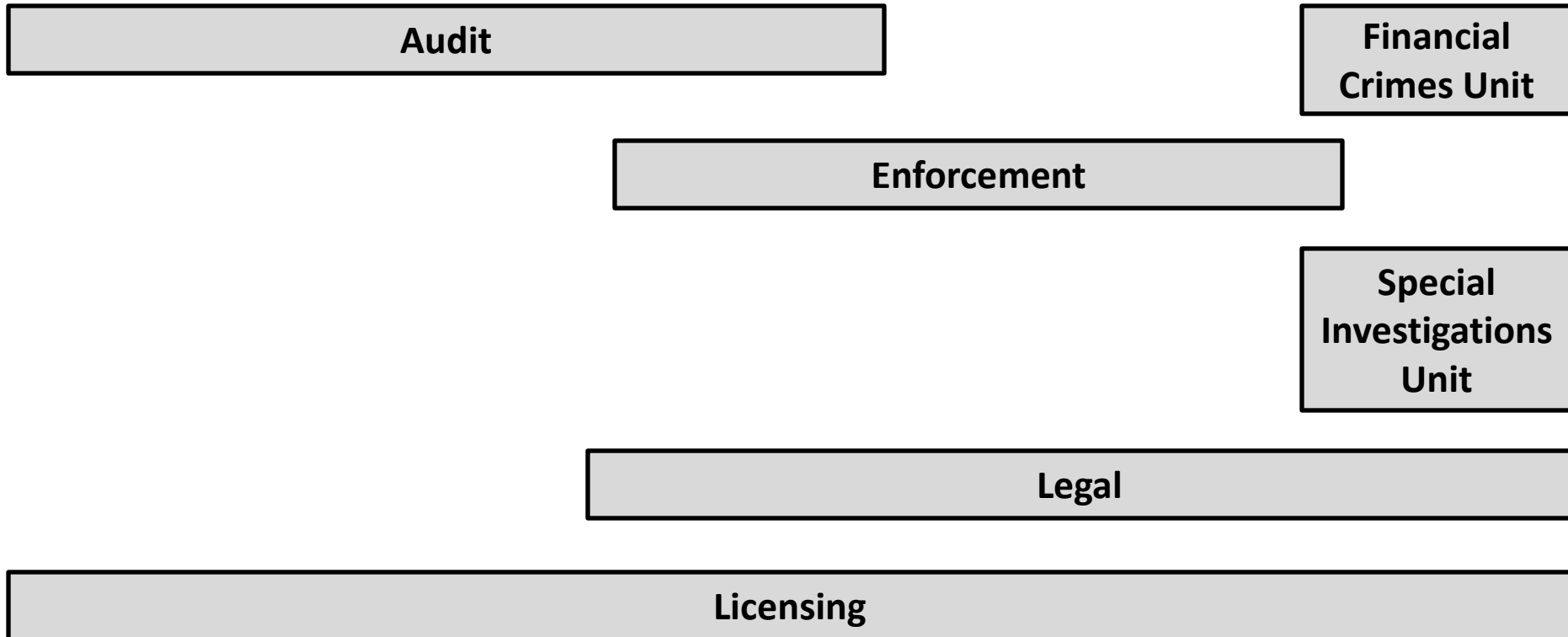


Regulatory & Enforcement Oversight

Licensee and Permittee Behavior

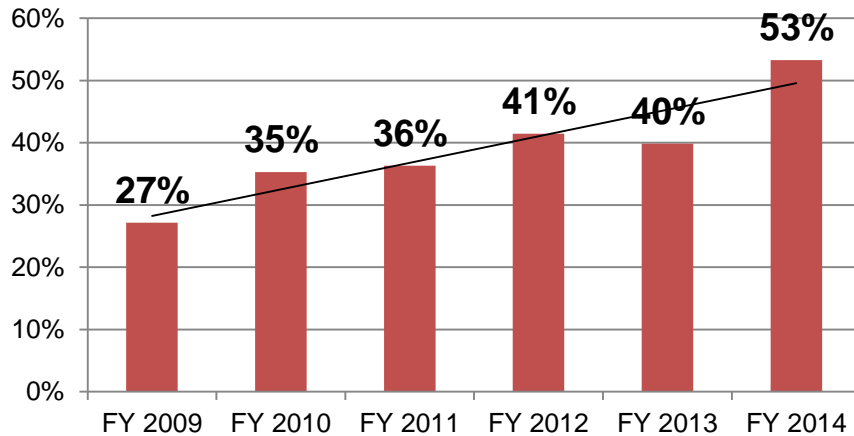
Excellent (No Violations)	Good (Non-Public Safety Violations)	Fair (Employee Public Safety Violations)	Bad (License Holder Public Safety Violations)	Criminal (License Holder Organized Criminal Activity)
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TABC Division/Unit Oversight

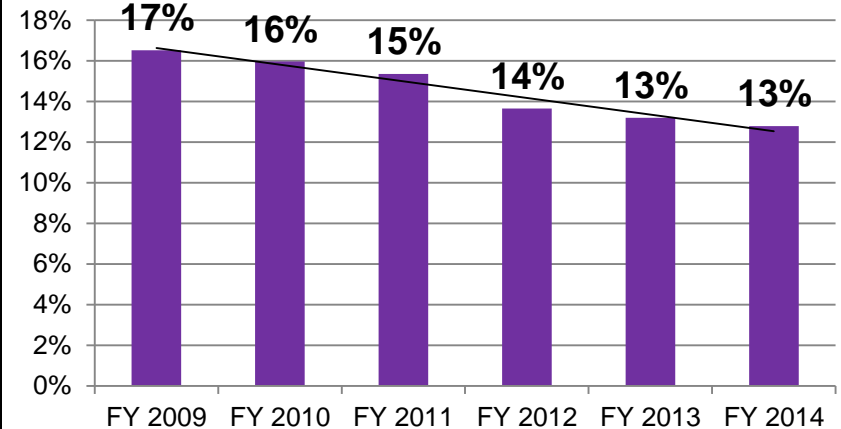


Public Safety

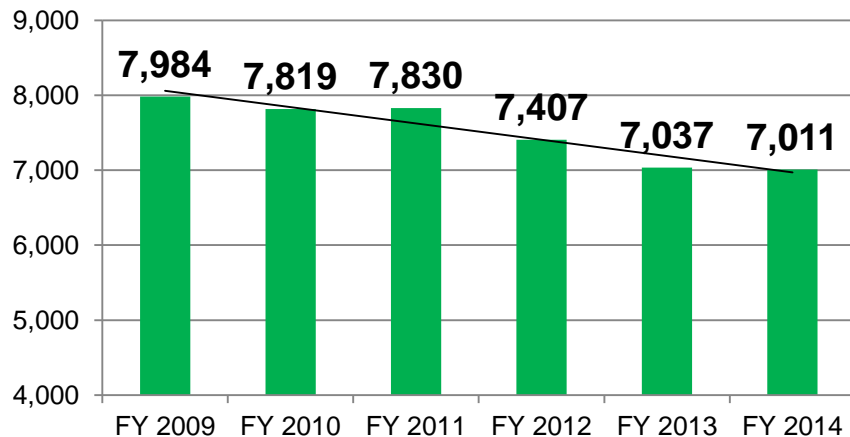
Priority Inspections as a Percentage of All Retail Inspections



Priority Retailers as a Percentage of All Retailers



**Number of Priority Retailers
FY 2009 - FY 2014**



**Administrative Actions Initiated by Type
FY 2009 - FY 2014**

