



LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

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OFFICE OF ALCOHOL AND TOBACCO CONTROL

Although the state Office of Alcohol and Tobacco Control has sped up the issuance of alcohol permits for bars, stores, restaurants and other outlets, it needs to better manage the way it inspects alcohol beverage outlets and enforces the ABO laws, according to a report released Monday by Legislative Auditor Daryl Purpera.

The performance audit covered the fiscal years 2011 through 2013, the time incumbent Commissioner Troy Hebert has been in office.

The state auditor's report said ATC conducted only 4,458 alcohol and tobacco compliance checks at stores and bars in the 2013 fiscal year - down from 8,972 in the 2012 fiscal year. The compliance checks are the primary tool the agency uses to see if ABOs are selling alcohol or tobacco to underage users.

According to the report, ATC officials said it reduced the number of compliance checks "because the number of ATC agents decreased by 52 percent, from 44 employees during fiscal year 2009 to 21" in the current fiscal year.

The report said despite a directive from Commissioner Hebert that agents inspect all ABOs at least annually, 24 percent of the 10,046 outlets "were not inspected in accordance with this directive during fiscal year 2013." Twenty-two of 23 ABOs (95.65 percent) of the alcohol outlets went uninspected in Tensas Parish - the most of any single parish, while Allen, Cameron, Grant, St. Helena, Washington and West Carroll had all the alcohol sales locations inspected, the report said.

The Lafayette-Lake Charles area had the lowest percentage of uninspected ABOs (8.1 percent) during the 2013 fiscal year while the New Orleans region had the highest percentage that went uninspected, 35.2 percent, according to the report. "One reason for these inspection results may be that ATC has not assigned its agents to regions in proportion to the number of ABOs to ensure the workload is equally distributed," auditors said.

The average agent caseload in the Lafayette-Lake Charles region is 445 for each of the five agents, while in the New Orleans area, four agents have an average caseload of 887 each.

The report pointed out that Commissioner Hebert has implemented several new policies such as requiring all ABOs to have annual inspections. Some had not been inspected in years, agency officials said.



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The report also pointed out that the ATC “did not effectively plan routine inspections as some agents did not inspect ABOs that were close to others” that had been inspected while other agents conducted multiple inspections of ABOs that had no compliance issues.

The report said there were seven cases where the same agent inspected the same ABO twice in a seven-day period even though it passed its first inspection, and “15 instances where four different agents conducted five total inspections on the same ABO in fiscal year 2013.”

“Better planning of inspections would also help ensure that agents do not inspect ABOs more often than necessary,” the audit report said. “One reason that some agents conducted multiple inspections on the same ABOs may be due to a new performance-based services system that ATC implemented in October 2012. This system requires that agents complete a minimum of 50 routine inspections per month.

“Therefore, some agents may be over-inspecting certain ABOs to meet this requirement.”

The report also said that ATC did not follow up on 197 of the 365 cases that had violations after routine inspections to see if the violations were corrected. The report said that although agency regulations do not currently require agents to conduct re-inspections, in the future re-inspections will be required.

The agents also did not inspect within the required five days 61 of the 74 ABOs that had their permits suspended to make sure they were not selling alcohol. The report also said that “ATC cannot ensure that agents are citing violations consistently” because the agency does not capture sufficient electronic data showing whether an ABO passed or failed each of 35 checklist items. Such data, the report said, could identify potential inconsistencies among agents.

Using ATC’s own data, auditors said the agency had 835 cases in 2013 that resulted in 2,887 violations. Almost 55 percent of the violations were for having drugs, such as synthetic marijuana, on the grounds of an alcohol outlet. Only 5.2 percent of the violations involved selling alcohol to underage persons.

The audit also recommended to legislators they may want to consider raising the maximum level of fines ATC can impose on violators. “The highest penalty ATC is statutorily allowed to assess is \$2,500 for a third offense,” the report said. “The Office of Public Health which issues permits and inspects restaurants, bars and grocery stores, has maximum penalties of \$10,000 for violations of the state sanitary code,” according to the report.

From July 12, 2011 to June 28, 2013, ATC handled 1,490 enforcement cases and issued \$845,230 in fines.



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The audit said that under state law, the ATC office has 35 days to issue a permit if an alcohol beverage outlet meets all of the qualifications. Since Commissioner Hebert took over the office during fiscal year 2011, the number of permits issued in that 35-day period has gone from 69 percent to 93 percent in fiscal year 2013.

However, the report said, the office did not always assess late fees on outlets that did not renew their annual permits on time. Auditors said in a review of 300 late renewals between fiscal years 2011 and 2013, the office did not impose late fees totaling \$2,322 in one-third of them. As of January 12, 2014, there was a total of 15,599 active alcohol permits in effect.

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On Twitter: ATC issuing permits more quickly, needs to better manage way it inspects alcohol beverage outlets and enforces laws.