



What Permit? Legal Issues for One-Day Fundraising Events

One-day events are a popular way for Texas nonprofits to raise money. Fundraisers can be as varied as the nonprofits they benefit. From golf tournaments to auctions, gala events to fun runs, these events trigger a host of legal considerations, including sales tax collection, permitting requirements, event insurance, and other issues.

Are Texas nonprofits required to collect sales taxes at one-day events?

Generally, *all* organizations and businesses selling goods or services are required by law to collect and remit sales taxes to the Texas Comptroller. There are, however, many exceptions. Most Texas nonprofit organizations – even those not recognized as tax exempt under Section 501 of the Internal Revenue Code – may benefit from a specific legal exemption to sales tax collection.

How many tax-free-sales days can we have each year?

Most nonprofits may conduct up to two tax-free sale days per calendar year. Each sale may last only one day, which is defined as 24 consecutive hours. Texas law allows some organizations to hold more than two tax-free sales days each year:

- *College or university student organizations* - one tax-free sale day each month. Tex. Tax. Code §151.321.
- *Firefighter and EMS Volunteers* - 10 tax-free sales per year. Tex. Tax Code 151.310(a)(4); 154.310(c-1).
- *Senior citizen groups (65 and over)* – Nonprofit senior citizen groups are exempt from collecting sales tax on items they make and sell. These groups may hold up to four sales each year for a total of not more than 20 days per calendar year (ex. 4 sales in a single year lasting no more than 5 days each).
- *Banquets* - A nonprofit may hold one tax-free banquet a year if it is not professionally catered, is not held in a restaurant, hotel, or other similar place of business, is not in competition with a retailer required to collect tax, and the food is prepared, served, and sold by members of the organization. This exception does not apply to the sale of alcoholic beverages, which always require a permit.

Texas law also bars some entities from conducting any tax-free sales. These groups include athletic organizations, chambers of commerce and governmental entities.

Do we have to charge taxes on entrance fees to our one-day event?

No. Entrance fees are not subject to tax. However, money or anything of value paid to enter a game (casino or poker night, for example) may be considered illegal gambling regardless of sales tax.¹

What permits do we need to hold a one-day fundraising event?

The permits required depend upon factors such as the type of event, whether food or alcohol will be sold, the number of attendees, the venue, local ordinances and other considerations.

¹ If the activity meets the following three elements, it is illegal gambling under Texas law: 1) Money or anything of value is paid to enter the game; 2) The winners are decided by a game of chance; and 3) Prizes of value are awarded.

Food Sales - Texas law specifically exempts 501(c) nonprofit organizations from the permits required of temporary food establishments. However, each local authority has its own set of legal requirements. A nonprofit may be required to obtain and pay fees if selling food at a bake sale, spaghetti dinner, street fair, or other similar fundraising event. If you plan to sell food prepared onsite, contact the local health department (city, county, or local public health district) for permitting, food preparation, and inspection requirements in the area where the event will be held. Penalties for failure to acquire the right permits vary by jurisdiction, but may range from Class C to Class A misdemeanors. Each day the violation occurs is a separate offense. Find out more about [retail food permitting](#) from the Texas Department of State Health Services.

Alcohol Sales - All organizations and businesses, regardless of charitable status, must apply for a temporary license from the Texas Alcoholic Beverage Commission (TABC) to sell beer or wine at a one-day event. A special Three-Day Wine and Beer Permit authorizes a nonprofit to sell wine and beer for on-site consumption at an event sponsored by the organization. A nonprofit may obtain 10 temporary permits in one calendar year, but must file reports after each event. For more information, see www.tabc.state.tx.us. Apply for a permit through your local [TABC Field Office](#). Since alcohol sales can present potential risks to the nonprofit, consider hiring licensed bartenders, especially if you plan to serve liquor.

Auctions - A tax-exempt organization does not have to comply with the Texas auction laws if the person organizing, arranging, or conducting the action receives no compensation. See [Tex. Occ. Code § 1802.002\(3\)](#). No permit is required. If you hire a professional, auctioneer's fees cannot exceed 20% of the gross receipts of items auctioned.

Child Care - A nonprofit can provide temporary childcare at a one-day event without obtaining a special permit or license if it is not otherwise subject to licensing by the Texas Department of Family and Protective Services.² Consider screening volunteers who will be working with children.

What about permits for large gatherings?

Texas law imposes certain legal requirements for gatherings of more than 5,000 people.³ It does not regulate smaller gatherings. However, most local governments have established minimum health and safety standards for gatherings of less than 5000 attendees. Local regulations and permitting requirements can dictate the number bathroom facilities, type of food permits, and use of public streets and spaces, among other considerations. Review city and county regulations on the website for that locale or at city hall. Pay attention to deadlines – many require filing the permit application well in advance of the event.

Should we get extra insurance for our event?

If you plan to rent special equipment (such as a climbing rock or inflatable bounce house), make sure the owner/operator carries the legally required insurance.⁴ Where the risks of physical injury are higher, make sure that the organization has insurance coverage sufficient to manage the risk. If the general commercial liability policy does not cover one-day events, contact your insurance provider and ask about purchasing a rider to the policy to cover a one-day event, or a special event policy. Insurance for special events is generally recommended, especially if the event is not held at your principal place of business.

² A nonprofit can provide short term child care without obtaining a permit if the care is not offered more than two days a week, is less than 24 hours a day, and is not part of an ongoing program that is required to be licensed.

³ The event host must supply: 1) one water outlet or container for each 100 people in attendance; 2) an area of at least 50 sq. ft. per person; 3) two toilets for every 50 people in attendance, gender- designated, separate, and private. Hand washing facilities must be provided near the toilets; 4) trashcans located throughout and trash collection at least twice daily; 5) amplifying equipment may not operate in excess of 70 decibels.

⁴ Amusement ride owners and operators must have a certified copy of an insurance policy demonstrating compliance with [Tex. Occ. Code §§2151.101\(a\)\(3\); 2151.1011\(b\)](#), and Tex. Admin. Code §5.9004(b). Motorized trains and continuous airflow inflatables (Class B Rides) must carry limits of liability of \$1,000,000 per occurrence.