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AN ACT

relating to the regulation of certain businesses that sell beer or beer and wine in certain counties; providing an administrative penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 11, Alcoholic Beverage Code, is amended by adding Section 11.13 to read as follows:

Sec. 11.13. CERTAIN APPLICATIONS PROHIBITED. (a) This section applies only to a license or permit held in connection with an establishment located in a county with a population of 1.4 million or more for which a license or permit has been issued under Chapter 25 or 69 for the on-premises consumption of beer exclusively or beer and wine exclusively, other than a license or permit for an establishment holding a food and beverage certificate whose primary business being operated on the premises is food service.

(b) Notwithstanding any other provision of this code, a person who is within the fourth degree by consanguinity or affinity of the current licensee or permittee, as determined under Chapter 573, Government Code, may not apply for any license or permit under this code in connection with an establishment the license or permit of which is suspended under Section 11.61 or 61.71 or in connection with an establishment against whose current licensee or permittee a charge of a violation of this code is pending.

1 (c) Notwithstanding any other provision of this code, a
2 person who is within the fourth degree by consanguinity or affinity
3 of a licensee or permittee, as determined under Chapter 573,
4 Government Code, whose license or permit was canceled under Section
5 11.61 or 61.71 may not, for a period of two years from the date of
6 the cancellation, apply for a license or permit in connection with
7 an establishment at the same location as the establishment whose
8 license or permit was canceled.

9 (d) In this section, "person" includes each member of a
10 partnership or association and, with respect to a corporation, each
11 officer and the owner or owners of a majority of the corporate
12 stock.

13 SECTION 2. Subchapter B, Chapter 11, Alcoholic Beverage
14 Code, is amended by adding Section 11.321 to read as follows:

15 Sec. 11.321. ADMINISTRATIVE PENALTY IN CERTAIN COUNTIES.

16 (a) This section applies only to an original or renewal
17 application made in connection with an establishment located in a
18 county with a population of 1.4 million or more.

19 (b) In addition to any other applicable civil or criminal
20 penalty, the commission may impose an administrative penalty not to
21 exceed \$4,000 on a licensee or permittee who makes a false or
22 misleading statement in an original or renewal application, either
23 in the formal application itself or in any written instrument
24 relating to the application submitted to the commission or its
25 officers or employees, in connection with an establishment that is
26 licensed or permitted under Chapter 25 or 69 for the on-premises
27 consumption of beer exclusively or beer and wine exclusively, other

1 than an establishment holding a food and beverage certificate whose
2 primary business being operated on the premises is food service.

3 SECTION 3. Section 11.61, Alcoholic Beverage Code, is
4 amended by adding Subsections (b-1) and (i) to read as follows:

5 (b-1) Notwithstanding Section 204.01 and any other
6 provision of this code, a person applying for a license or permit
7 under Chapter 25 or 69 for the on-premises consumption of beer
8 exclusively or beer and wine exclusively, other than a license or
9 permit for an establishment holding a food and beverage certificate
10 whose primary business being operated on the premises is food
11 service, must file with the commission a surety bond, in an amount
12 to be determined by the commission, conditioned on the licensee's
13 or permittee's conformance with the alcoholic beverage law. The
14 bond is forfeited to the commission on the suspension of the license
15 or permit for the first time under this section or Section 61.71.
16 Before the suspended license or permit may be reinstated, the
17 licensee or permittee must furnish a second surety bond, similarly
18 conditioned, in an amount greater than the initial surety bond, the
19 amount to be determined by the commission. If the same license or
20 permit is suspended under this section or Section 61.71 a second
21 time, the bond is again forfeited to the commission. Before the
22 suspended license or permit may be reinstated, the licensee or
23 permittee shall furnish a third surety bond, similarly conditioned,
24 in an amount greater than the second surety bond, the amount to be
25 determined by the commission. If the same license or permit is
26 suspended under this section or Section 61.71 a third time, the bond
27 is again forfeited to the commission and the license or permit shall

1 be canceled by the commission. This subsection applies only to a
2 license or permit held in connection with an establishment located
3 in a county with a population of 1.4 million or more.

4 (i) A hearing under Subsection (b) must be concluded not
5 later than the 60th day after notice is provided under that
6 subsection. Neither the permittee nor the commission may waive the
7 provisions of this subsection. This subsection applies only to a
8 hearing in connection with a wine and beer retailer's permit, other
9 than a permit held with a food and beverage certificate, for
10 premises located in a county with a population of 1.4 million or
11 more.

12 SECTION 4. Section 25.02, Alcoholic Beverage Code, is
13 amended to read as follows:

14 Sec. 25.02. FEE. (a) Except as provided in Subsection (b)
15 and Section 25.03 [~~of this code~~], the annual state fee for a wine
16 and beer retailer's permit is \$175.

17 (b) The annual state fee for a wine and beer retailer's
18 permit in connection with an establishment located in a county with
19 a population of 1.4 million or more is \$750. The original
20 application fee for a wine and beer retailer's permit in connection
21 with an establishment located in a county with a population of 1.4
22 million or more is \$1,000.

23 SECTION 5. Subchapter A, Chapter 61, Alcoholic Beverage
24 Code, is amended by adding Section 61.15 to read as follows:

25 Sec. 61.15. CERTAIN APPLICATIONS PROHIBITED. Section 11.13
26 applies to an application for a license under this subtitle.

27 SECTION 6. Subchapter B, Chapter 61, Alcoholic Beverage

1 Code, is amended by adding Section 61.52 to read as follows:

2 Sec. 61.52. ADMINISTRATIVE PENALTY IN CERTAIN COUNTIES.
3 Section 11.321 applies to an original or renewal application for a
4 retail dealer's on-premise license, other than a license with a
5 food and beverage certificate, for an establishment located in a
6 county with a population of 1.4 million or more.

7 SECTION 7. Section 61.71, Alcoholic Beverage Code, is
8 amended by adding Subsections (j) and (k) to read as follows:

9 (j) Section 11.61(b-1) applies to a retail dealer's
10 on-premise license, other than a license held with a food and
11 beverage certificate, for premises located in a county with a
12 population of 1.4 million or more.

13 (k) A hearing under Subsection (a) must be concluded not
14 later than the 60th day after the date notice is provided under that
15 subsection. The provisions of this subsection may not be waived by
16 the license holder or the commission. This subsection applies only
17 to a hearing in connection with a retail dealer's on-premise
18 license, other than a license held with a food and beverage
19 certificate, for premises located in a county with a population of
20 1.4 million or more.

21 SECTION 8. Section 69.02, Alcoholic Beverage Code, is
22 amended to read as follows:

23 Sec. 69.02. FEE. (a) Except as provided in Subsection (b)
24 and Section 69.03 [~~of this code~~], the annual state fee for a retail
25 dealer's on-premise license is \$150.

26 (b) The annual state fee for a retail dealer's on-premise
27 license in connection with an establishment located in a county

1 with a population of 1.4 million or more is \$750. The original
2 application fee for a retail dealer's on-premise license in
3 connection with an establishment located in a county with a
4 population of 1.4 million or more is \$1,000.

5 SECTION 9. Section 11.13, Alcoholic Beverage Code, as added
6 by this Act, applies only to an application for a license or permit:

7 (1) filed with the Texas Alcoholic Beverage Commission
8 on or after the effective date of this Act; or

9 (2) pending before the Texas Alcoholic Beverage
10 Commission on the effective date of this Act.

11 SECTION 10. Section 11.321 and Subsection (b-1), Section
12 11.61, Alcoholic Beverage Code, as added by this Act, apply only to
13 an original or renewal application filed on or after the effective
14 date of this Act. An original or renewal application filed before
15 the effective date of this Act is covered by the law in effect when
16 the application was filed, and the former law is continued in effect
17 for that purpose.

18 SECTION 11. Subsection (i), Section 11.61, Alcoholic
19 Beverage Code, and Subsection (k), Section 61.71, Alcoholic
20 Beverage Code, as added by this Act, apply only to a hearing the
21 notice for which is provided on or after the effective date of this
22 Act. A hearing the notice for which is provided before the
23 effective date of this Act is covered by the law in effect when the
24 notice is provided, and the former law is continued in effect for
25 that purpose.

26 SECTION 12. Sections 25.02 and 69.02, Alcoholic Beverage
27 Code, as amended by this Act, apply only to a fee due on or after the

1 effective date of this Act. A fee due before the effective date of
2 this Act is covered by the law in effect when the fee was due, and
3 the former law is continued in effect for that purpose.

4 SECTION 13. This Act takes effect September 1, 2005.

David Swihurst
President of the Senate

Jim Cullin
Speaker of the House

I hereby certify that S.B. No. 1850 passed the Senate on April 29, 2005, by the following vote: Yeas 28, Nays 1; and that the Senate concurred in House amendment on May 26, 2005, by the following vote: Yeas 31, Nays 0.

Larry Spaw
Secretary of the Senate

I hereby certify that S.B. No. 1850 passed the House, with amendment, on May 19, 2005, by a non-record vote.

Robert Haney
Chief Clerk of the House

Approved:

17 JUNE '05
Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
9:20 AM '05

Roger Williams
Secretary of State