

BILL ANALYSIS

Senate Research Center

S.B. 1273
By: Armbrister
Business & Commerce
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Enrolled

DIGEST AND PURPOSE

Currently, Texas law allows a person holding a Texas Alcoholic Beverage Commission (TABC) license (licensee) or permit (permittee) to pay a civil penalty rather than have the license or permit suspended. Current law also requires TABC to consider the economic impact a suspension would have on a licensee or permittee when assessing civil penalties. Currently, a licensee or permittee that has committed a violation could be charged a higher fine than a permittee that has committed the same violation and has a lower volume of sales. S.B. 1273 deletes the requirement that TABC consider a suspension's economic impact on the permittee or licensee when determining a civil penalty or a suspension and includes the criteria that should be considered. This bill also deletes expired text referring to the confiscated liquor fund.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 11.61, Alcoholic Beverage Code, by adding Subsections (g) and (h), as follows:

(g) Requires the length of a suspension to be appropriate for the nature and seriousness of the violation. Sets forth the required criteria for the Texas Alcoholic Beverage Commission (TABC) or TABC administrator to consider in determining the length of a suspension.

(h) Sets forth the criteria on which the length of a suspension is prohibited from being based.

SECTION 2. Amends Section 11.64, Alcoholic Beverage Code, as follows:

Sec. 11.64. ALTERNATIVES TO SUSPENSION, CANCELLATION. (a) Deletes text referring to considering a suspension's economic impact on the permittee or licensee. Prohibits a civil penalty from being imposed on the basis of criminal prosecution in which the defendant was found not guilty, the criminal charges were dismissed, or there has not been final adjudication. Requires the Texas Alcoholic Beverage Commission (TABC) or administrator to determine the amount of the civil penalty based on certain criteria, but prohibits determination based on certain financial criteria. Requires the amount of the civil penalty to be appropriate for the nature and seriousness of the violation.

(b) Deletes a reference to a retail dealer's off-premise licensee and a reference specifying Subsection (c) as being of this section.

(c) Deletes the specification that Subsection (b), to which this subsection refers, is of this section. Includes as a circumstance that justifies the application of Subsection (b), that the permittee or licensee has demonstrated good faith, including taking action to rectify the consequences of the violation and to deter future violations. Makes nonsubstantive changes.

(d) Requires fees and civil penalties received by TABC under this section to be deposited in the general revenue fund. Deletes expired text referring to the confiscated liquor fund.

SECTION 3. Amends Subchapter C, Chapter 11, Alcoholic Beverage Code, by adding Section 11.641, as follows:

Sec. 11.641. AMOUNT OF CIVIL PENALTY. (a) Requires the amount of the civil penalty under Section 11.64 to be appropriate for the nature and seriousness of the violation. Sets forth the required criteria for TABC or the TABC administrator to consider in determining the amount of a civil penalty.

(b) Sets forth the criteria on which the amount of a civil penalty is prohibited from being based.

(c) Prohibits a civil penalty from being imposed on the basis of a criminal prosecution in which the defendant was found not guilty, the criminal charges were dismissed, or there has not been final adjudication.

SECTION 4. Amends Section 61.71, Alcoholic Beverage Code, by adding Subsections (h) and (i), as follows:

(h) Requires the length of a suspension to be appropriate for the nature and seriousness of the violation. Sets forth the required criteria for TABC or the TABC administrator to consider in determining the length of a suspension.

(i) Sets forth the criteria on which the length of a suspension is prohibited from being based.

SECTION 5. Effective date: September 1, 2003.