

By: Lewis

H.B. No. 671

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the requirements for certain alcoholic beverage
3 licenses.

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

5 SECTION 1. Section 61.43(a), Alcoholic Beverage Code, is
6 amended to read as follows:

7 (a) The county judge may refuse to approve an application
8 for a license as a distributor or retailer if the county judge has
9 reasonable grounds to believe and finds that:

10 (1) the applicant has been finally convicted in a
11 court of competent jurisdiction for the violation of a provision of
12 this code during the two years immediately preceding the filing of
13 an application;

14 (2) two years has not elapsed since the termination,
15 by pardon or otherwise, of a sentence imposed for conviction of a
16 felony;

17 (3) the applicant has violated or caused to be
18 violated a provision of this code or a rule or regulation of the
19 commission, for which a suspension was not imposed, during the
20 12-month period immediately preceding the filing of an application;

21 (4) the applicant failed to answer or falsely or
22 incorrectly answered a question in an original or renewal
23 application;

24 (5) the applicant for a retail dealer's license does

1 not have an adequate building available at the address for which the
2 license is sought before conducting any activity authorized by the
3 license;

4 (6) the applicant or a person with whom the applicant
5 is residentially domiciled had an interest in a license or permit
6 which was cancelled or revoked within the 12-month period
7 immediately preceding the filing of an application;

8 (7) the applicant failed or refused to furnish a true
9 copy of the application to the commission's district office in the
10 district in which the premises sought to be licensed are located;

11 (8) the premises on which beer is to be sold for
12 on-premises consumption does not have:

13 (A) running water, if it is available; ~~or~~

14 (B) ~~does not have~~ separate free toilets for
15 males and females, properly identified, on the premises for which
16 the license is sought or, if the premises is a restaurant that
17 derives less than 50 percent of its gross revenue from the sale of
18 alcohol, is 2,500 square feet or less, and has an occupancy rating
19 of 50 persons or less, at least one toilet, properly identified, on
20 the premises for which the license is sought;

21 (9) the applicant for a retail dealer's license will
22 conduct business in a manner contrary to law or in a place or manner
23 conducive to a violation of the law; or

24 (10) the place, building, or premises for which the
25 license is sought was used for selling alcoholic beverages in
26 violation of the law at any time during the six months immediately
27 preceding the filing of the application or was used, operated, or

1 frequented during that time for a purpose or in a manner which was
2 lewd, immoral, offensive to public decency, or contrary to this
3 code.

4 SECTION 2. Section 61.71(a), Alcoholic Beverage Code, is
5 amended to read as follows:

6 (a) The commission or administrator may suspend for not more
7 than 60 days or cancel an original or renewal retail dealer's on- or
8 off-premise license if it is found, after notice and hearing, that
9 the licensee:

10 (1) violated a provision of this code or a rule of the
11 commission during the existence of the license sought to be
12 cancelled or suspended or during the immediately preceding license
13 period;

14 (2) was finally convicted for violating a penal
15 provision of this code;

16 (3) was finally convicted of a felony while holding an
17 original or renewal license;

18 (4) made a false statement or a misrepresentation in
19 his original application or a renewal application;

20 (5) with criminal negligence sold, served, or
21 delivered an alcoholic beverage to a minor;

22 (6) sold, served, or delivered an alcoholic beverage
23 to an intoxicated person;

24 (7) sold, served, or delivered an alcoholic beverage
25 at a time when its sale is prohibited;

26 (8) entered or offered to enter an agreement,
27 condition, or system which would constitute the sale or possession

1 of alcoholic beverages on consignment;

2 (9) possessed on the licensed premises, or on adjacent
3 premises directly or indirectly under his control, an alcoholic
4 beverage not authorized to be sold on the licensed premises, or
5 permitted an agent, servant, or employee to do so, except as
6 permitted by Section 22.06, 24.05, or 102.05 of this code;

7 (10) does not have at his licensed premises:

8 (A) running water, if it is available; ~~and~~

9 (B) separate toilets for both sexes which are
10 properly identified, or, if the premises is a restaurant that
11 derives less than 50 percent of its gross revenue from the sale of
12 alcohol, is 2,500 square feet or less, and has an occupancy rating
13 of 50 persons or less, at least one toilet that is properly
14 identified;

15 (11) permitted a person on the licensed premises to
16 engage in conduct which is lewd, immoral, or offensive to public
17 decency;

18 (12) employed a person under 18 years of age to sell,
19 handle, or dispense beer, or to assist in doing so, in an
20 establishment where beer is sold for on-premises consumption;

21 (13) conspired with a person to violate Section
22 101.41-101.43, 101.68, 102.11-102.15, 104.04, 108.01, or
23 108.04-108.06 of this code, or a rule promulgated under Section
24 5.40 of this code, or accepted a benefit from an act prohibited by
25 any of these sections or rules;

26 (14) refused to permit or interfered with an
27 inspection of the licensed premises by an authorized representative

1 of the commission or a peace officer;

2 (15) permitted the use or display of his license in the
3 conduct of a business for the benefit of a person not authorized by
4 law to have an interest in the license;

5 (16) maintained blinds or barriers at his place of
6 business in violation of this code;

7 (17) conducted his business in a place or manner which
8 warrants the cancellation or suspension of the license based on the
9 general welfare, health, peace, morals, safety, and sense of
10 decency of the people;

11 (18) consumed an alcoholic beverage or permitted one
12 to be consumed on the licensed premises at a time when the
13 consumption of alcoholic beverages is prohibited by this code;

14 (19) purchased beer for the purpose of resale from a
15 person other than the holder of a manufacturer's or distributor's
16 license;

17 (20) acquired an alcoholic beverage for the purpose of
18 resale from another retail dealer of alcoholic beverages;

19 (21) owned an interest of any kind in the business or
20 premises of the holder of a distributor's license;

21 (22) purchased, sold, offered for sale, distributed,
22 or delivered an alcoholic beverage, or consumed an alcoholic
23 beverage or permitted one to be consumed on the licensed premises
24 while his license was under suspension;

25 (23) purchased, possessed, stored, sold, or offered
26 for sale beer in or from an original package bearing a brand or
27 trade name of a manufacturer other than the brand or trade name

1 shown on the container;

2 (24) habitually uses alcoholic beverages to excess, is
3 mentally incompetent, or is physically unable to manage his
4 establishment;

5 (25) imported beer into this state except as
6 authorized by Section 107.07 of this code;

7 (26) occupied premises in which the holder of a
8 manufacturer's or distributor's license had an interest of any
9 kind;

10 (27) knowingly permitted a person who had an interest
11 in a permit or license which was cancelled for cause to sell,
12 handle, or assist in selling or handling alcoholic beverages on the
13 licensed premises within one year after the cancellation;

14 (28) was financially interested in a place of business
15 engaged in the selling of distilled spirits or permitted a person
16 having an interest in that type of business to have a financial
17 interest in the business authorized by his license, except as
18 permitted by Section 22.06, 24.05, or 102.05 of this code;

19 (29) is residentially domiciled with or related to a
20 person engaged in selling distilled spirits, except as permitted by
21 Section 22.06, 24.05, or 102.05 of this code, so that there is a
22 community of interests which the commission or administrator finds
23 contrary to the purposes of this code;

24 (30) is residentially domiciled with or related to a
25 person whose license has been cancelled within the preceding 12
26 months so that there is a community of interests which the
27 commission or administrator finds contrary to the purposes of this

1 code; or

2 (31) failed to promptly report to the commission a
3 breach of the peace occurring on the licensee's licensed premises.

4 SECTION 3. (a) Section 61.43(a), Alcoholic Beverage Code,
5 as amended by this Act, applies only to a county judge's decision
6 regarding an application for a license as a distributor or retailer
7 that is made on or after the effective date of this Act. A decision
8 made before the effective date of this Act is governed by the law in
9 effect immediately before that date, and that law is continued in
10 effect for that purpose.

11 (b) Section 61.71(a), Alcoholic Beverage Code, as amended
12 by this Act, applies only to a suspension or cancellation of a
13 retail dealer's on- or off-premise license on or after the
14 effective date of this Act. A suspension or cancellation of a
15 license before the effective date of this Act is governed by the law
16 in effect immediately before that date, and that law is continued in
17 effect for that purpose.

18 SECTION 4. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2003.