

1-1 By: Lewis (Senate Sponsor - Brimer) H.B. No. 671
1-2 (In the Senate-Received from the House April 7, 2003;
1-3 April 9, 2003, read first time and referred to Committee on State
1-4 Affairs; May 12, 2003, reported favorably by the following vote:
1-5 Yeas 8, Nays 0; May 12, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the requirements for certain alcoholic beverage
1-9 licenses.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 61.43(a), Alcoholic Beverage Code, is
1-12 amended to read as follows:

1-13 (a) The county judge may refuse to approve an application
1-14 for a license as a distributor or retailer if the county judge has
1-15 reasonable grounds to believe and finds that:

1-16 (1) the applicant has been finally convicted in a
1-17 court of competent jurisdiction for the violation of a provision of
1-18 this code during the two years immediately preceding the filing of
1-19 an application;

1-20 (2) two years has not elapsed since the termination,
1-21 by pardon or otherwise, of a sentence imposed for conviction of a
1-22 felony;

1-23 (3) the applicant has violated or caused to be
1-24 violated a provision of this code or a rule or regulation of the
1-25 commission, for which a suspension was not imposed, during the
1-26 12-month period immediately preceding the filing of an application;

1-27 (4) the applicant failed to answer or falsely or
1-28 incorrectly answered a question in an original or renewal
1-29 application;

1-30 (5) the applicant for a retail dealer's license does
1-31 not have an adequate building available at the address for which the
1-32 license is sought before conducting any activity authorized by the
1-33 license;

1-34 (6) the applicant or a person with whom the applicant
1-35 is residentially domiciled had an interest in a license or permit
1-36 which was cancelled or revoked within the 12-month period
1-37 immediately preceding the filing of an application;

1-38 (7) the applicant failed or refused to furnish a true
1-39 copy of the application to the commission's district office in the
1-40 district in which the premises sought to be licensed are located;

1-41 (8) the premises on which beer is to be sold for
1-42 on-premises consumption does not have:

1-43 (A) running water, if it is available; ~~or~~
1-44 (B) ~~does not have~~ separate free toilets for
1-45 males and females, properly identified, on the premises for which
1-46 the license is sought or, if the premises is a restaurant that
1-47 derives less than 50 percent of its gross revenue from the sale of
1-48 alcohol, is 2,500 square feet or less, and has an occupancy rating
1-49 of 50 persons or less, at least one toilet, properly identified, on
1-50 the premises for which the license is sought;

1-51 (9) the applicant for a retail dealer's license will
1-52 conduct business in a manner contrary to law or in a place or manner
1-53 conducive to a violation of the law; or

1-54 (10) the place, building, or premises for which the
1-55 license is sought was used for selling alcoholic beverages in
1-56 violation of the law at any time during the six months immediately
1-57 preceding the filing of the application or was used, operated, or
1-58 frequented during that time for a purpose or in a manner which was
1-59 lewd, immoral, offensive to public decency, or contrary to this
1-60 code.

1-61 SECTION 2. Section 61.71(a), Alcoholic Beverage Code, is
1-62 amended to read as follows:

1-63 (a) The commission or administrator may suspend for not more
1-64 than 60 days or cancel an original or renewal retail dealer's on- or

- 2-1 off-premise license if it is found, after notice and hearing, that
 2-2 the licensee:
- 2-3 (1) violated a provision of this code or a rule of the
 2-4 commission during the existence of the license sought to be
 2-5 cancelled or suspended or during the immediately preceding license
 2-6 period;
- 2-7 (2) was finally convicted for violating a penal
 2-8 provision of this code;
- 2-9 (3) was finally convicted of a felony while holding an
 2-10 original or renewal license;
- 2-11 (4) made a false statement or a misrepresentation in
 2-12 his original application or a renewal application;
- 2-13 (5) with criminal negligence sold, served, or
 2-14 delivered an alcoholic beverage to a minor;
- 2-15 (6) sold, served, or delivered an alcoholic beverage
 2-16 to an intoxicated person;
- 2-17 (7) sold, served, or delivered an alcoholic beverage
 2-18 at a time when its sale is prohibited;
- 2-19 (8) entered or offered to enter an agreement,
 2-20 condition, or system which would constitute the sale or possession
 2-21 of alcoholic beverages on consignment;
- 2-22 (9) possessed on the licensed premises, or on adjacent
 2-23 premises directly or indirectly under his control, an alcoholic
 2-24 beverage not authorized to be sold on the licensed premises, or
 2-25 permitted an agent, servant, or employee to do so, except as
 2-26 permitted by Section 22.06, 24.05, or 102.05 of this code;
- 2-27 (10) does not have at his licensed premises:
 2-28 (A) running water, if it is available; [7] and
 2-29 (B) separate toilets for both sexes which are
 2-30 properly identified, or, if the premises is a restaurant that
 2-31 derives less than 50 percent of its gross revenue from the sale of
 2-32 alcohol, is 2,500 square feet or less, and has an occupancy rating
 2-33 of 50 persons or less, at least one toilet that is properly
 2-34 identified;
- 2-35 (11) permitted a person on the licensed premises to
 2-36 engage in conduct which is lewd, immoral, or offensive to public
 2-37 decency;
- 2-38 (12) employed a person under 18 years of age to sell,
 2-39 handle, or dispense beer, or to assist in doing so, in an
 2-40 establishment where beer is sold for on-premises consumption;
- 2-41 (13) conspired with a person to violate Section
 2-42 101.41-101.43, 101.68, 102.11-102.15, 104.04, 108.01, or
 2-43 108.04-108.06 of this code, or a rule promulgated under Section
 2-44 5.40 of this code, or accepted a benefit from an act prohibited by
 2-45 any of these sections or rules;
- 2-46 (14) refused to permit or interfered with an
 2-47 inspection of the licensed premises by an authorized representative
 2-48 of the commission or a peace officer;
- 2-49 (15) permitted the use or display of his license in the
 2-50 conduct of a business for the benefit of a person not authorized by
 2-51 law to have an interest in the license;
- 2-52 (16) maintained blinds or barriers at his place of
 2-53 business in violation of this code;
- 2-54 (17) conducted his business in a place or manner which
 2-55 warrants the cancellation or suspension of the license based on the
 2-56 general welfare, health, peace, morals, safety, and sense of
 2-57 decency of the people;
- 2-58 (18) consumed an alcoholic beverage or permitted one
 2-59 to be consumed on the licensed premises at a time when the
 2-60 consumption of alcoholic beverages is prohibited by this code;
- 2-61 (19) purchased beer for the purpose of resale from a
 2-62 person other than the holder of a manufacturer's or distributor's
 2-63 license;
- 2-64 (20) acquired an alcoholic beverage for the purpose of
 2-65 resale from another retail dealer of alcoholic beverages;
- 2-66 (21) owned an interest of any kind in the business or
 2-67 premises of the holder of a distributor's license;
- 2-68 (22) purchased, sold, offered for sale, distributed,
 2-69 or delivered an alcoholic beverage, or consumed an alcoholic

3-1 beverage or permitted one to be consumed on the licensed premises
3-2 while his license was under suspension;

3-3 (23) purchased, possessed, stored, sold, or offered
3-4 for sale beer in or from an original package bearing a brand or
3-5 trade name of a manufacturer other than the brand or trade name
3-6 shown on the container;

3-7 (24) habitually uses alcoholic beverages to excess, is
3-8 mentally incompetent, or is physically unable to manage his
3-9 establishment;

3-10 (25) imported beer into this state except as
3-11 authorized by Section 107.07 of this code;

3-12 (26) occupied premises in which the holder of a
3-13 manufacturer's or distributor's license had an interest of any
3-14 kind;

3-15 (27) knowingly permitted a person who had an interest
3-16 in a permit or license which was cancelled for cause to sell,
3-17 handle, or assist in selling or handling alcoholic beverages on the
3-18 licensed premises within one year after the cancellation;

3-19 (28) was financially interested in a place of business
3-20 engaged in the selling of distilled spirits or permitted a person
3-21 having an interest in that type of business to have a financial
3-22 interest in the business authorized by his license, except as
3-23 permitted by Section 22.06, 24.05, or 102.05 of this code;

3-24 (29) is residentially domiciled with or related to a
3-25 person engaged in selling distilled spirits, except as permitted by
3-26 Section 22.06, 24.05, or 102.05 of this code, so that there is a
3-27 community of interests which the commission or administrator finds
3-28 contrary to the purposes of this code;

3-29 (30) is residentially domiciled with or related to a
3-30 person whose license has been cancelled within the preceding 12
3-31 months so that there is a community of interests which the
3-32 commission or administrator finds contrary to the purposes of this
3-33 code; or

3-34 (31) failed to promptly report to the commission a
3-35 breach of the peace occurring on the licensee's licensed premises.

3-36 SECTION 3. (a) Section 61.43(a), Alcoholic Beverage Code,
3-37 as amended by this Act, applies only to a county judge's decision
3-38 regarding an application for a license as a distributor or retailer
3-39 that is made on or after the effective date of this Act. A decision
3-40 made before the effective date of this Act is governed by the law in
3-41 effect immediately before that date, and that law is continued in
3-42 effect for that purpose.

3-43 (b) Section 61.71(a), Alcoholic Beverage Code, as amended
3-44 by this Act, applies only to a suspension or cancellation of a
3-45 retail dealer's on- or off-premise license on or after the
3-46 effective date of this Act. A suspension or cancellation of a
3-47 license before the effective date of this Act is governed by the law
3-48 in effect immediately before that date, and that law is continued in
3-49 effect for that purpose.

3-50 SECTION 4. This Act takes effect immediately if it receives
3-51 a vote of two-thirds of all the members elected to each house, as
3-52 provided by Section 39, Article III, Texas Constitution. If this
3-53 Act does not receive the vote necessary for immediate effect, this
3-54 Act takes effect September 1, 2003.

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